



Rep. Sara Feigenholtz

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1 AMENDMENT TO SENATE BILL 145

2 AMENDMENT NO. _____. Amend Senate Bill 145 by replacing
3 everything after the enacting clause.

4 "Section 5. The Illinois Act on the Aging is amended by
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Department shall
9 establish a Long Term Care Ombudsman Program, through the
10 Office of State Long Term Care Ombudsman ("the Office"), in
11 accordance with the provisions of the Older Americans Act of
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104
16 of the Nursing Home Care Act, as now or hereafter amended;

1 that is, it means the right to:

2 (i) Enter any long term care facility or assisted
3 living or shared housing establishment or supportive
4 living facility;

5 (ii) Communicate privately and without restriction
6 with any resident, regardless of age, who consents to
7 the communication;

8 (iii) Seek consent to communicate privately and
9 without restriction with any resident, regardless of
10 age;

11 (iv) Inspect the clinical and other records of a
12 resident, regardless of age, with the express written
13 consent of the resident;

14 (v) Observe all areas of the long term care
15 facility or supportive living facilities, assisted
16 living or shared housing establishment except the
17 living area of any resident who protests the
18 observation.

19 (2) "Long Term Care Facility" means (i) any facility as
20 defined by Section 1-113 of the Nursing Home Care Act, as
21 now or hereafter amended; and (ii) any skilled nursing
22 facility or a nursing facility which meets the requirements
23 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
24 (b), (c), and (d) of the Social Security Act, as now or
25 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
26 and 42 U.S.C. 1396r(a), (b), (c), and (d)); and any

1 facility as defined by Section 1-113 of the MR/DD Community
2 Care Act, as now or hereafter amended.

3 (2.5) "Assisted living establishment" and "shared
4 housing establishment" have the meanings given those terms
5 in Section 10 of the Assisted Living and Shared Housing
6 Act.

7 (2.7) "Supportive living facility" means a facility
8 established under Section 5-5.01a of the Illinois Public
9 Aid Code.

10 (3) "State Long Term Care Ombudsman" means any person
11 employed by the Department to fulfill the requirements of
12 the Office of State Long Term Care Ombudsman as required
13 under the Older Americans Act of 1965, as now or hereafter
14 amended, and Departmental policy.

15 (3.1) "Ombudsman" means any designated representative
16 of a regional long term care ombudsman program; provided
17 that the representative, whether he is paid for or
18 volunteers his ombudsman services, shall be qualified and
19 designated by the Office to perform the duties of an
20 ombudsman as specified by the Department in rules and in
21 accordance with the provisions of the Older Americans Act
22 of 1965, as now or hereafter amended.

23 (c) Ombudsman; rules. The Office of State Long Term Care
24 Ombudsman shall be composed of at least one full-time ombudsman
25 and shall include a system of designated regional long term
26 care ombudsman programs. Each regional program shall be

1 designated by the State Long Term Care Ombudsman as a
2 subdivision of the Office and any representative of a regional
3 program shall be treated as a representative of the Office.

4 The Department, in consultation with the Office, shall
5 promulgate administrative rules in accordance with the
6 provisions of the Older Americans Act of 1965, as now or
7 hereafter amended, to establish the responsibilities of the
8 Department and the Office of State Long Term Care Ombudsman and
9 the designated regional Ombudsman programs. The administrative
10 rules shall include the responsibility of the Office and
11 designated regional programs to investigate and resolve
12 complaints made by or on behalf of residents of long term care
13 facilities, supportive living facilities, and assisted living
14 and shared housing establishments, including the option to
15 serve residents under the age of 60, relating to actions,
16 inaction, or decisions of providers, or their representatives,
17 of long term care facilities, of supported living facilities,
18 of assisted living and shared housing establishments, of public
19 agencies, or of social services agencies, which may adversely
20 affect the health, safety, welfare, or rights of such
21 residents. The Office and designated regional programs may
22 represent all residents, but are not required by this Act to
23 represent persons under 60 years of age, except to the extent
24 required by federal law. When necessary and appropriate,
25 representatives of the Office shall refer complaints to the
26 appropriate regulatory State agency. The Department, in

1 consultation with the Office, shall cooperate with the
2 Department of Human Services and other State agencies in
3 providing information and training to designated regional long
4 term care ombudsman programs about the appropriate assessment
5 and treatment (including information about appropriate
6 supportive services, treatment options, and assessment of
7 rehabilitation potential) of the residents they serve,
8 including children, persons with mental illness (other than
9 Alzheimer's disease and related disorders), and persons with
10 developmental disabilities.

11 The State Long Term Care Ombudsman and all other ombudsmen,
12 as defined in paragraph (3.1) of subsection (b) must submit to
13 background checks under the Health Care Worker Background Check
14 Act and receive training, as prescribed by the Illinois
15 Department on Aging, before visiting facilities. The training
16 must include information specific to assisted living
17 establishments, supportive living facilities, and shared
18 housing establishments and to the rights of residents
19 guaranteed under the corresponding Acts and administrative
20 rules.

21 (c-5) Consumer Choice Information Reports. The Office
22 shall:

23 (1) In collaboration with the Attorney General, create
24 a Consumer Choice Information Report form to be completed
25 by all licensed long term care facilities to aid
26 Illinoisans and their families in making informed choices

1 about long term care. The Office shall create a Consumer
2 Choice Information Report for each type of licensed long
3 term care facility. The Office shall collaborate with the
4 Attorney General and the Department of Human Services to
5 create a Consumer Choice Information Report form for
6 facilities licensed under the MR/DD Community Care Act.

7 (2) Develop a database of Consumer Choice Information
8 Reports completed by licensed long term care facilities
9 that includes information in the following consumer
10 categories:

- 11 (A) Medical Care, Services, and Treatment.
- 12 (B) Special Services and Amenities.
- 13 (C) Staffing.
- 14 (D) Facility Statistics and Resident Demographics.
- 15 (E) Ownership and Administration.
- 16 (F) Safety and Security.
- 17 (G) Meals and Nutrition.
- 18 (H) Rooms, Furnishings, and Equipment.
- 19 (I) Family, Volunteer, and Visitation Provisions.

20 (3) Make this information accessible to the public,
21 including on the Internet by means of a hyperlink labeled
22 "Resident's Right to Know" on the Office's World Wide Web
23 home page. Information about facilities licensed under the
24 MR/DD Community Care Act shall be made accessible to the
25 public by the Department of Human Services, including on
26 the Internet by means of a hyperlink labeled "Resident's

1 and Families' Right to Know" on the Department of Human
2 Services' "For Customers" website.

3 (4) Have the authority, with the Attorney General, to
4 verify that information provided by a facility is accurate.

5 (5) Request a new report from any licensed facility
6 whenever it deems necessary.

7 (6) Include in the Office's Consumer Choice
8 Information Report for each type of licensed long term care
9 facility additional information on each licensed long term
10 care facility in the State of Illinois, including
11 information regarding each facility's compliance with the
12 relevant State and federal statutes, rules, and standards;
13 customer satisfaction surveys; and information generated
14 from quality measures developed by the Centers for Medicare
15 and Medicaid Services.

16 (d) Access and visitation rights.

17 (1) In accordance with subparagraphs (A) and (E) of
18 paragraph (3) of subsection (c) of Section 1819 and
19 subparagraphs (A) and (E) of paragraph (3) of subsection
20 (c) of Section 1919 of the Social Security Act, as now or
21 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
22 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
23 Older Americans Act of 1965, as now or hereafter amended
24 (42 U.S.C. 3058f), a long term care facility, supportive
25 living facility, assisted living establishment, and shared
26 housing establishment must:

1 (i) permit immediate access to any resident,
2 regardless of age, by a designated ombudsman; and

3 (ii) permit representatives of the Office, with
4 the permission of the resident's legal representative
5 or legal guardian, to examine a resident's clinical and
6 other records, regardless of the age of the resident,
7 and if a resident is unable to consent to such review,
8 and has no legal guardian, permit representatives of
9 the Office appropriate access, as defined by the
10 Department, in consultation with the Office, in
11 administrative rules, to the resident's records.

12 (2) Each long term care facility, supportive living
13 facility, assisted living establishment, and shared
14 housing establishment shall display, in multiple,
15 conspicuous public places within the facility accessible
16 to both visitors and residents and in an easily readable
17 format, the address and phone number of the Office of the
18 Long Term Care Ombudsman, in a manner prescribed by the
19 Office.

20 (e) Immunity. An ombudsman or any representative of the
21 Office participating in the good faith performance of his or
22 her official duties shall have immunity from any liability
23 (civil, criminal or otherwise) in any proceedings (civil,
24 criminal or otherwise) brought as a consequence of the
25 performance of his official duties.

26 (f) Business offenses.

1 (1) No person shall:

2 (i) Intentionally prevent, interfere with, or
3 attempt to impede in any way any representative of the
4 Office in the performance of his official duties under
5 this Act and the Older Americans Act of 1965; or

6 (ii) Intentionally retaliate, discriminate
7 against, or effect reprisals against any long term care
8 facility resident or employee for contacting or
9 providing information to any representative of the
10 Office.

11 (2) A violation of this Section is a business offense,
12 punishable by a fine not to exceed \$501.

13 (3) The Director of Aging, in consultation with the
14 Office, shall notify the State's Attorney of the county in
15 which the long term care facility, supportive living
16 facility, or assisted living or shared housing
17 establishment is located, or the Attorney General, of any
18 violations of this Section.

19 (g) Confidentiality of records and identities. The
20 Department shall establish procedures for the disclosure by the
21 State Ombudsman or the regional ombudsmen entities of files
22 maintained by the program. The procedures shall provide that
23 the files and records may be disclosed only at the discretion
24 of the State Long Term Care Ombudsman or the person designated
25 by the State Ombudsman to disclose the files and records, and
26 the procedures shall prohibit the disclosure of the identity of

1 any complainant, resident, witness, or employee of a long term
2 care provider unless:

3 (1) the complainant, resident, witness, or employee of
4 a long term care provider or his or her legal
5 representative consents to the disclosure and the consent
6 is in writing;

7 (2) the complainant, resident, witness, or employee of
8 a long term care provider gives consent orally; and the
9 consent is documented contemporaneously in writing in
10 accordance with such requirements as the Department shall
11 establish; or

12 (3) the disclosure is required by court order.

13 (h) Legal representation. The Attorney General shall
14 provide legal representation to any representative of the
15 Office against whom suit or other legal action is brought in
16 connection with the performance of the representative's
17 official duties, in accordance with the State Employee
18 Indemnification Act.

19 (i) Treatment by prayer and spiritual means. Nothing in
20 this Act shall be construed to authorize or require the medical
21 supervision, regulation or control of remedial care or
22 treatment of any resident in a long term care facility operated
23 exclusively by and for members or adherents of any church or
24 religious denomination the tenets and practices of which
25 include reliance solely upon spiritual means through prayer for
26 healing.

1 (j) The Long Term Care Ombudsman Fund is created as a
2 special fund in the State treasury to receive moneys for the
3 express purposes of this Section. All interest earned on moneys
4 in the fund shall be credited to the fund. Moneys contained in
5 the fund shall be used to support the purposes of this Section.

6 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;
7 96-328, eff. 8-11-09; 96-758, eff. 8-25-09; 96-1372, eff.
8 7-29-10.)

9 Section 10. The Criminal Identification Act is amended by
10 changing Section 7.5 as follows:

11 (20 ILCS 2630/7.5)

12 Sec. 7.5. Notification of outstanding warrant. If the
13 existence of an outstanding arrest warrant is identified by the
14 Department of State Police in connection with the criminal
15 history background checks conducted pursuant to subsection (b)
16 of Section 2-201.5 of the Nursing Home Care Act and Section
17 2-201.5 of the MR/DD Community Care Act or subsection (d) of
18 Section 6.09 of the Hospital Licensing Act, the Department
19 shall notify the jurisdiction issuing the warrant of the
20 following:

21 (1) Existence of the warrant.

22 (2) The name, address, and telephone number of the
23 licensed long term care facility in which the wanted person
24 resides.

1 Local issuing jurisdictions shall be aware that nursing
2 facilities have residents who may be fragile or vulnerable or
3 who may have a mental illness. When serving a warrant, law
4 enforcement shall make every attempt to mitigate the adverse
5 impact on other facility residents.

6 (Source: P.A. 96-1372, eff. 7-29-10.)

7 Section 15. The MR/DD Community Care Act is amended by
8 changing Sections 1-114.01, 1-117, 1-122, 1-129, 1-130, 2-104,
9 2-106.1, 2-201.5, 2-205, 2-208, 3-109, 3-110, 3-112, 3-117,
10 3-119, 3-202, 3-206, 3-206.01, 3-206.02, 3-212, 3-303,
11 3-303.2, 3-304.1, 3-304.2, 3-305, 3-306, 3-308, 3-309, 3-310,
12 3-318, 3-402, 3-501, 3-502, 3-504, 3-703, and 3-712 and by
13 adding Sections 1-111.05, 1-114.001, 1-114.005, 1-120.3,
14 1-128.5, 1-132, 2-114, 2-115, 2-201.6, 2-217, 2-218, 3-119.1,
15 3-202.2a, 3-808, 3-808.5, 3-809, and 3-810 as follows:

16 (210 ILCS 47/1-111.05 new)

17 Sec. 1-111.05. Distressed facility. "Distressed facility"
18 means a facility determined by the Department to be a
19 distressed facility pursuant to Section 3-304.2 of this Act.

20 (210 ILCS 47/1-114.001 new)

21 Sec. 1-114.001. Habilitation. "Habilitation" means an
22 effort directed toward increasing a person's level of physical,
23 mental, social, or economic functioning. Habilitation may

1 include, but is not limited to, diagnosis, evaluation, medical
2 services, residential care, day care, special living
3 arrangements, training, education, employment services,
4 protective services, and counseling.

5 (210 ILCS 47/1-114.005 new)

6 Sec. 1-114.005. High risk designation. "High risk
7 designation" means a violation of a provision of the Illinois
8 Administrative Code that has been identified by the Department
9 through rulemaking to be inherently necessary to protect the
10 health, safety, and welfare of a resident.

11 (210 ILCS 47/1-114.01)

12 Sec. 1-114.01. Identified offender. "Identified offender"
13 means a person who meets any of the following criteria:

14 (1) Has been convicted of, found guilty of, adjudicated
15 delinquent for, found not guilty by reason of insanity for,
16 or found unfit to stand trial for any felony offense listed
17 in Section 25 of the Health Care Worker Background Check
18 Act, except for the following:

19 (i) a felony offense described in Section 10-5 of
20 the Nurse Practice Act;

21 (ii) a felony offense described in Section 4, 5, 6,
22 8, or 17.02 of the Illinois Credit Card and Debit Card
23 Act;

24 (iii) a felony offense described in Section 5, 5.1,

1 5.2, 7, or 9 of the Cannabis Control Act;

2 (iv) a felony offense described in Section 401,
3 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
4 Controlled Substances Act; and

5 (v) a felony offense described in the
6 Methamphetamine Control and Community Protection Act.

7 (2) Has been convicted of, adjudicated delinquent for,
8 found not guilty by reason of insanity for, or found unfit
9 to stand trial for, any sex offense as defined in
10 subsection (c) of Section 10 of the Sex Offender Management
11 Board Act.

12 (3) Is any other resident as determined by the
13 Department of State Police. ~~has been convicted of any~~
14 ~~felony offense listed in Section 25 of the Health Care~~
15 ~~Worker Background Check Act, is a registered sex offender,~~
16 ~~or is serving a term of parole, mandatory supervised~~
17 ~~release, or probation for a felony offense.~~

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/1-117)

20 Sec. 1-117. Neglect. "Neglect" means a facility's failure
21 to provide or willful withholding of any element identified in
22 the individual's service plan, adequate medical care,
23 habilitation, psychiatric services, therapeutic services,
24 personal care, or assistance with activities of daily living
25 that is necessary to avoid physical harm, mental anguish, or

1 ~~mental illness of a resident failure in a facility to provide~~
2 ~~adequate medical or personal care or maintenance, which failure~~
3 ~~results in physical or mental injury to a resident or in the~~
4 ~~deterioration of a resident's physical or mental condition.~~

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/1-120.3 new)

7 Sec. 1-120.3. Provisional admission period. "Provisional
8 admission period" means the time between the admission of an
9 identified offender as defined in Section 1-114.01 of this Act
10 and 3 days following the admitting facility's receipt of an
11 Identified Offender Report and Recommendation in accordance
12 with Section 2-201.6 of this Act.

13 (210 ILCS 47/1-122)

14 Sec. 1-122. Resident. "Resident" means a person receiving
15 personal or medical care, including, but not limited to,
16 habilitation, psychiatric services, therapeutic services, and
17 assistance with activities of daily living from a facility
18 ~~residing in and receiving personal care from a facility.~~

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (210 ILCS 47/1-128.5 new)

21 Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"
22 means a violation of this Act or of the rules promulgated
23 thereunder that creates a condition or occurrence relating to

1 the operation and maintenance of a facility that proximately
2 caused a resident's death.

3 (210 ILCS 47/1-129)

4 Sec. 1-129. Type 'A' violation. A "Type 'A' violation"
5 means a violation of this Act or of the rules promulgated
6 thereunder which creates a condition or occurrence relating to
7 the operation and maintenance of a facility that (i) creates a
8 substantial probability that the risk of death or serious
9 mental or physical harm to a resident will result therefrom or
10 (ii) has resulted in actual physical or mental harm to a
11 resident ~~presenting a substantial probability that death or~~
12 ~~serious mental or physical harm to a resident will result~~
13 ~~therefrom.~~

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/1-130)

16 Sec. 1-130. Type 'B' violation. A "Type 'B' violation"
17 means a violation of this Act or of the rules promulgated
18 thereunder which (i) creates a condition or occurrence relating
19 to the operation and maintenance of a facility that is more
20 likely than not to cause more than minimal physical or mental
21 harm to a resident or (ii) is specifically designated as a Type
22 "B" violation in this Act ~~directly threatening to the health,~~
23 ~~safety or welfare of a resident.~~

24 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/1-132 new)

2 Sec. 1-132. Type "C" violation. A "Type 'C' violation"
3 means a violation of this Act or of the rules promulgated
4 thereunder that creates a condition or occurrence relating to
5 the operation and maintenance of a facility that creates a
6 substantial probability that less than minimal physical or
7 mental harm to a resident will result therefrom.

8 (210 ILCS 47/2-104)

9 Sec. 2-104. Medical treatment; records.

10 (a) A resident shall be permitted to retain the services of
11 his or her own personal physician at his or her own expense or
12 under an individual or group plan of health insurance, or under
13 any public or private assistance program providing such
14 coverage. However, the facility is not liable for the
15 negligence of any such personal physician. Every resident shall
16 be permitted to obtain from his or her own physician or the
17 physician attached to the facility complete and current
18 information concerning his or her medical diagnosis, treatment
19 and prognosis in terms and language the resident can reasonably
20 be expected to understand. Every resident shall be permitted to
21 participate in the planning of his or her total care and
22 medical treatment to the extent that his or her condition
23 permits. No resident shall be subjected to experimental
24 research or treatment without first obtaining his or her

1 informed, written consent. The conduct of any experimental
2 research or treatment shall be authorized and monitored by an
3 institutional review board ~~committee~~ appointed by the Director
4 ~~administrator of the facility where such research and treatment~~
5 ~~is conducted~~. The membership, operating procedures and review
6 criteria for the institutional review board ~~committees~~ shall be
7 prescribed under rules and regulations of the Department and
8 shall comply with the requirements for institutional review
9 boards established by the federal Food and Drug Administration.
10 No person who has received compensation in the prior 3 years
11 from an entity that manufactures, distributes, or sells
12 pharmaceuticals, biologics, or medical devices may serve on the
13 institutional review board.

14 The institutional review board may approve only research or
15 treatment that meets the standards of the federal Food and Drug
16 Administration with respect to (i) the protection of human
17 subjects and (ii) financial disclosure by clinical
18 investigators. The Office of State Long Term Care Ombudsman and
19 the State Protection and Advocacy organization shall be given
20 an opportunity to comment on any request for approval before
21 the board makes a decision. Those entities shall not be
22 provided information that would allow a potential human subject
23 to be individually identified, unless the board asks the
24 Ombudsman for help in securing information from or about the
25 resident. The board shall require frequent reporting of the
26 progress of the approved research or treatment and its impact

1 on residents, including immediate reporting of any adverse
2 impact to the resident, the resident's representative, the
3 Office of the State Long Term Care Ombudsman, and the State
4 Protection and Advocacy organization. The board may not approve
5 any retrospective study of the records of any resident about
6 the safety or efficacy of any care or treatment if the resident
7 was under the care of the proposed researcher or a business
8 associate when the care or treatment was given, unless the
9 study is under the control of a researcher without any business
10 relationship to any person or entity who could benefit from the
11 findings of the study.

12 No facility shall permit experimental research or
13 treatment to be conducted on a resident or give access to any
14 person or person's records for a retrospective study about the
15 safety or efficacy of any care or treatment without the prior
16 written approval of the institutional review board. No
17 administrator, or person licensed by the State to provide
18 medical care or treatment to any person may assist or
19 participate in any experimental research on or treatment of a
20 resident, including a retrospective study, that does not have
21 the prior written approval of the board. Such conduct shall be
22 grounds for professional discipline by the Department of
23 Financial and Professional Regulation.

24 The institutional review board may exempt from ongoing
25 review research or treatment initiated on a resident before the
26 individual's admission to a facility and for which the board

1 determines there is adequate ongoing oversight by another
2 institutional review board. Nothing in this Section shall
3 prevent a facility, any facility employee, or any other person
4 from assisting or participating in any experimental research on
5 or treatment of a resident if the research or treatment began
6 before the person's admission to a facility, until the board
7 has reviewed the research or treatment and decided to grant or
8 deny approval or to exempt the research or treatment from
9 ongoing review.

10 (b) All medical treatment and procedures shall be
11 administered as ordered by a physician. All new physician
12 orders shall be reviewed by the facility's director of nursing
13 or charge nurse designee within 24 hours after such orders have
14 been issued to assure facility compliance with such orders.

15 According to rules adopted by the Department, every woman
16 resident of child bearing age shall receive routine obstetrical
17 and gynecological evaluations as well as necessary prenatal
18 care.

19 (c) Every resident shall be permitted to refuse medical
20 treatment and to know the consequences of such action, unless
21 such refusal would be harmful to the health and safety of
22 others and such harm is documented by a physician in the
23 resident's clinical record. The resident's refusal shall free
24 the facility from the obligation to provide the treatment.

25 (d) Every resident, resident's guardian, or parent if the
26 resident is a minor shall be permitted to inspect and copy all

1 his or her clinical and other records concerning his or her
2 care and maintenance kept by the facility or by his or her
3 physician. The facility may charge a reasonable fee for
4 duplication of a record.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/2-106.1)

7 Sec. 2-106.1. Drug treatment.

8 (a) A resident shall not be given unnecessary drugs. An
9 unnecessary drug is any drug used in an excessive dose,
10 including in duplicative therapy; for excessive duration;
11 without adequate monitoring; without adequate indications for
12 its use; or in the presence of adverse consequences that
13 indicate the drugs should be reduced or discontinued. The
14 Department shall adopt, by rule, the standards for unnecessary
15 drugs contained in interpretive guidelines issued by the United
16 States Department of Health and Human Services for the purposes
17 of administering Titles XVIII and XIX of the Social Security
18 Act.

19 (b) Psychotropic medication shall not be administered
20 ~~prescribed~~ without the informed consent of the resident, the
21 resident's guardian, or other authorized representative.
22 "Psychotropic medication" means medication that is used for or
23 listed as used for antipsychotic, antidepressant, antimanic,
24 or antianxiety behavior modification or behavior management
25 purposes in the latest editions of the AMA Drug Evaluations or

1 the Physician's Desk Reference. The Department shall adopt, by
2 rule, a protocol specifying how informed consent for
3 psychotropic medication may be obtained or refused. The
4 protocol shall require, at a minimum, a discussion between (1)
5 the resident or the resident's authorized representative and
6 (2) the resident's physician, a registered pharmacist who is
7 not a dispensing pharmacist for the facility where the resident
8 lives, or a licensed nurse about the possible risks and
9 benefits of a recommended medication and the use of
10 standardized consent forms designated by the Department. Each
11 form developed by the Department (i) shall be written in plain
12 language, (ii) shall be able to be downloaded from the
13 Department's official website, (iii) shall include information
14 specific to the psychotropic medication for which consent is
15 being sought, and (iv) shall be used for every resident for
16 whom psychotropic drugs are prescribed. In addition to creating
17 those forms, the Department shall approve the use of any other
18 informed consent forms that meet criteria developed by the
19 Department.

20 In addition to any other requirement prescribed by law, a
21 facility that is found to have violated this subsection, or the
22 federal certification requirement that informed consent be
23 obtained before administering a psychotropic medication shall
24 for 3 years after the notice of violation be required to (A)
25 obtain the signatures of 2 licensed health care professionals
26 on every form purporting to give informed consent for the

1 administration of a psychotropic medication, certifying the
2 personal knowledge of each health care professional that the
3 consent was obtained in compliance with the requirements of
4 this subsection or (B) videotape or make a digital video record
5 of the procedures followed by the facility to comply with the
6 requirements of this subsection.

7 (c) The requirements of this Section are intended to
8 control in a conflict with the requirements of Sections 2-102
9 and 2-107.2 of the Mental Health and Developmental Disabilities
10 Code with respect to the administration of psychotropic
11 medication.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 (210 ILCS 47/2-114 new)

14 Sec. 2-114. Unlawful discrimination. No resident shall be
15 subjected to unlawful discrimination as defined in Section
16 1-103 of the Illinois Human Rights Act by any owner, licensee,
17 administrator, employee, or agent of a facility. Unlawful
18 discrimination does not include an action by any owner,
19 licensee, administrator, employee, or agent of a facility that
20 is required by this Act or rules adopted under this Act.

21 (210 ILCS 47/2-115 new)

22 Sec. 2-115. Right to notification of violations. Residents
23 and their guardians or other resident representatives, if any,
24 shall be notified of any violation of this Act or the rules

1 promulgated thereunder pursuant to Section 2-217 of this Act,
2 or of violations of the requirements of Titles 18 or 19 of the
3 Social Security Act or rules promulgated thereunder, with
4 respect to the health, safety, or welfare of the resident.

5 (210 ILCS 47/2-201.5)

6 Sec. 2-201.5. Screening prior to admission.

7 (a) All persons age 18 or older seeking admission to a
8 facility must be screened to determine the need for facility
9 services prior to being admitted, regardless of income, assets,
10 or funding source. In addition, any person who seeks to become
11 eligible for medical assistance from the Medical Assistance
12 Program under the Illinois Public Aid Code to pay for services
13 while residing in a facility must be screened prior to
14 receiving those benefits. Screening for facility services
15 shall be administered through procedures established by
16 administrative rule. Screening may be done by agencies other
17 than the Department as established by administrative rule.

18 (a-1) Any screening shall also include an evaluation of
19 whether there are residential supports and services or an array
20 of community services that would enable the person to live in
21 the community. The person shall be told about the existence of
22 any such services that would enable the person to live safely
23 and humanely in the least restrictive environment, that is
24 appropriate, that the individual or guardian chooses, and the
25 person shall be given the assistance necessary to avail himself

1 or herself of any available services.

2 (b) In addition to the screening required by subsection
3 (a), a facility shall, within 24 hours after admission, request
4 a criminal history background check pursuant to the Uniform
5 Conviction Information Act for all persons age 18 or older
6 seeking admission to the facility. Background checks conducted
7 pursuant to this Section shall be based on the resident's name,
8 date of birth, and other identifiers as required by the
9 Department of State Police. If the results of the background
10 check are inconclusive, the facility shall initiate a
11 fingerprint-based check, unless the fingerprint-based check is
12 waived by the Director of Public Health based on verification
13 by the facility that the resident is completely immobile or
14 that the resident meets other criteria related to the
15 resident's health or lack of potential risk which may be
16 established by Departmental rule. A waiver issued pursuant to
17 this Section shall be valid only while the resident is immobile
18 or while the criteria supporting the waiver exist. The facility
19 shall provide for or arrange for any required fingerprint-based
20 checks. If a fingerprint-based check is required, the facility
21 shall arrange for it to be conducted in a manner that is
22 respectful of the resident's dignity and that minimizes any
23 emotional or physical hardship to the resident.

24 (c) If the results of a resident's criminal history
25 background check reveal that the resident is an identified
26 offender as defined in Section 1-114.01 of this Act, the

1 facility shall do the following:

2 (1) Immediately notify the Department of State Police,
3 in the form and manner required by the Department of State
4 Police, in collaboration with the Department of Public
5 Health that the resident is an identified offender.

6 (2) Within 72 hours, arrange for a fingerprint-based
7 criminal history record inquiry to be requested on the
8 identified offender resident. The inquiry shall be
9 based on the subject's name, sex, race, date of birth,
10 fingerprint images, and other identifiers required by
11 the Department of State Police. The inquiry shall be
12 processed through the files of the Department of State
13 Police and the Federal Bureau of Investigation to
14 locate any criminal history record information that
15 may exist regarding the subject. The Federal Bureau of
16 Investigation shall furnish to the Department of State
17 Police, pursuant to an inquiry under this paragraph
18 (2), any criminal history record information contained
19 in its files. The facility shall comply with all
20 applicable provisions contained in the Uniform
21 Conviction Information Act. All name-based and
22 fingerprint-based criminal history record inquiries
23 shall be submitted to the Department of State Police
24 electronically in the form and manner prescribed by the
25 Department of State Police. The Department of State
26 Police may charge the facility a fee for processing

1 name-based and fingerprint-based criminal history
2 record inquiries. The fee shall be deposited into the
3 State Police Services Fund. The fee shall not exceed
4 the actual cost of processing the inquiry.

5 ~~identified offenders who seek admission to a licensed facility~~
6 ~~shall not be admitted unless the licensed facility complies~~
7 ~~with the requirements of the Department's administrative rules~~
8 ~~adopted pursuant to Section 3-202.3.~~

9 (d) The Department shall develop and maintain a
10 de-identified database of residents who have injured facility
11 staff, facility visitors, or other residents, and the attendant
12 circumstances, solely for the purposes of evaluating and
13 improving resident pre-screening and assessment procedures
14 (including the Criminal History Report prepared under Section
15 2-201.6 of this Act) and the adequacy of Department
16 requirements concerning the provision of care and services to
17 residents. A resident shall not be listed in the database until
18 a Department survey confirms the accuracy of the listing. The
19 names of persons listed in the database and information that
20 would allow them to be individually identified shall not be
21 made public. Neither the Department nor any other agency of
22 State government may use information in the database to take
23 any action against any individual, licensee, or other entity
24 unless the Department or agency receives the information
25 independent of this subsection (d). All information collected,
26 maintained, or developed under the authority of this subsection

1 (d) for the purposes of the database maintained under this
2 subsection (d) shall be treated in the same manner as
3 information that is subject to Part 21 of Article VIII of the
4 Code of Civil Procedure.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/2-201.6 new)

7 Sec. 2-201.6. Criminal History Report.

8 (a) The Department of State Police shall prepare a Criminal
9 History Report when it receives information, through the
10 criminal history background check required pursuant to
11 subsection (c) of Section 2-201.5 or through any other means,
12 that a resident of a facility is an identified offender.

13 (b) The Department of State Police shall complete the
14 Criminal History Report within 10 business days after receiving
15 any information described under subsection (a) of this Act that
16 a resident is an identified offender.

17 (c) The Criminal History Report shall include, but not be
18 limited to, all of the following:

19 (1) Copies of the identified offender's parole,
20 mandatory supervised release, or probation orders.

21 (2) An interview with the identified offender.

22 (3) A detailed summary of the entire criminal history
23 of the offender, including arrests, convictions, and the
24 date of the identified offender's last conviction relative
25 to the date of admission to a long-term care facility.

1 (4) If the identified offender is a convicted or
2 registered sex offender, then a review of any and all sex
3 offender evaluations conducted on that offender. If there
4 is no sex offender evaluation available, then the
5 Department of State Police shall arrange, through the
6 Department of Public Health, for a sex offender evaluation
7 to be conducted on the identified offender. If the
8 convicted or registered sex offender is under supervision
9 by the Illinois Department of Corrections or a county
10 probation department, then the sex offender evaluation
11 shall be arranged by and at the expense of the supervising
12 agency. All evaluations conducted on convicted or
13 registered sex offenders under this Act shall be conducted
14 by sex offender evaluators approved by the Sex Offender
15 Management Board.

16 (d) The Department of State Police shall provide the
17 Criminal History Report to a licensed forensic psychologist.
18 The licensed forensic psychologist shall prepare an Identified
19 Offender Report and Recommendation after (i) consideration of
20 the Criminal History Report, (ii) consultation with the
21 facility administrator or the facility medical director, or
22 both, regarding the mental and physical condition of the
23 identified offender, and (iii) reviewing the facility's file on
24 the identified offender, including all incident reports, all
25 information regarding medication and medication compliance,
26 and all information regarding previous discharges or transfers

1 from other facilities. The Identified Offender Report and
2 Recommendation shall detail whether and to what extent the
3 identified offender's criminal history necessitates the
4 implementation of security measures within the facility. If the
5 identified offender is a convicted or registered sex offender,
6 or if the Identified Offender Report and Recommendation reveals
7 that the identified offender poses a significant risk of harm
8 to others within the facility, then the offender shall be
9 required to have his or her own room within the facility.

10 (e) The licensed forensic psychologist shall complete the
11 Identified Offender Report and Recommendation within 14
12 business days after receiving the Criminal History Report and
13 shall promptly provide the Identified Offender Report and
14 Recommendation to the Department of State Police, which shall
15 provide the Identified Offender Report and Recommendation to
16 the following:

17 (1) The facility within which the identified offender
18 resides.

19 (2) The Chief of Police of the municipality in which
20 the facility is located.

21 (3) The State of Illinois Long Term Care Ombudsman.

22 (4) The Department of Public Health.

23 (f) The Department of Public Health shall keep a continuing
24 record of all residents determined to be identified offenders
25 as defined in Section 1-114.01 and shall report the number of
26 identified offender residents annually to the General

1 Assembly.

2 (g) The facility shall incorporate the Identified Offender
3 Report and Recommendation into the identified offender's
4 individual program plan created pursuant to 42 CFR 483.440(c).

5 (h) If, based on the Identified Offender Report and
6 Recommendation, a facility determines that it cannot manage the
7 identified offender resident safely within the facility, then
8 it shall commence involuntary transfer or discharge
9 proceedings pursuant to Section 3-402.

10 (i) Except for willful and wanton misconduct, any person
11 authorized to participate in the development of a Criminal
12 History Report or Identified Offender Report and
13 Recommendation is immune from criminal or civil liability for
14 any acts or omissions as the result of his or her good faith
15 effort to comply with this Section.

16 (210 ILCS 47/2-205)

17 Sec. 2-205. Disclosure of information to public. The
18 following information is subject to disclosure to the public
19 from the Department or the Department of Healthcare and Family
20 Services:

21 (1) Information submitted under Sections 3-103 and
22 3-207 except information concerning the remuneration of
23 personnel licensed, registered, or certified by the
24 Department of Financial and Professional Regulation (as
25 successor to the Department of Professional Regulation)

1 and monthly charges for an individual private resident;

2 (2) Records of license and certification inspections,
3 surveys, and evaluations of facilities, other reports of
4 inspections, surveys, and evaluations of resident care,
5 whether a facility is designated a distressed facility and
6 the basis for the designation, and reports concerning a
7 facility prepared pursuant to Titles XVIII and XIX of the
8 Social Security Act, subject to the provisions of the
9 Social Security Act;

10 (3) Cost and reimbursement reports submitted by a
11 facility under Section 3-208, reports of audits of
12 facilities, and other public records concerning costs
13 incurred by, revenues received by, and reimbursement of
14 facilities; and

15 (4) Complaints filed against a facility and complaint
16 investigation reports, except that a complaint or
17 complaint investigation report shall not be disclosed to a
18 person other than the complainant or complainant's
19 representative before it is disclosed to a facility under
20 Section 3-702, and, further, except that a complainant or
21 resident's name shall not be disclosed except under Section
22 3-702. The Department shall disclose information under
23 this Section in accordance with provisions for inspection
24 and copying of public records required by the Freedom of
25 Information Act. However, the disclosure of information
26 described in subsection (1) shall not be restricted by any

1 provision of the Freedom of Information Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (210 ILCS 47/2-208)

4 Sec. 2-208. Notice of imminent death, unusual incident,
5 abuse, or neglect.

6 (a) A facility shall immediately notify the identified
7 resident's next of kin, guardian, resident's representative,
8 and physician of the resident's death or when the resident's
9 death appears to be imminent. A facility shall immediately
10 notify the Department by telephone of a resident's death within
11 24 hours after the resident's death. The facility shall notify
12 the Department of the death of a facility's resident that does
13 not occur in the facility immediately upon learning of the
14 death. A facility shall notify the coroner or medical examiner
15 of a resident's death in a manner and form to be determined by
16 the Department after consultation with the coroner or medical
17 examiner of the county in which the facility is located. In
18 addition to notice to the Department by telephone, the
19 Department shall require the facility to submit written
20 notification of the death of a resident within 72 hours after
21 the death, including a report of any medication errors or other
22 incidents that occurred within 30 days of the resident's death.
23 A facility's failure to comply with this Section shall
24 constitute a Type "B" violation.

25 (b) A facility shall immediately notify the resident's next

1 of kin, guardian, or resident representative of any unusual
2 incident, abuse, or neglect involving the resident. A facility
3 shall immediately notify the Department by telephone of any
4 unusual incident, abuse, or neglect required to be reported
5 pursuant to State law or administrative rule. In addition to
6 notice to the Department by telephone, the Department shall
7 require the facility to submit written notification of any
8 unusual incident, abuse, or neglect within one day after the
9 unusual incident, abuse, or neglect occurring. A facility's
10 failure to comply with this Section shall constitute a Type "B"
11 violation. For purposes of this Section, "unusual incident"
12 means serious injury; unscheduled hospital visit for treatment
13 of serious injury; 9-1-1 calls for emergency services directly
14 relating to a resident threat; or stalking of staff or person
15 served that raises health or safety concerns.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/2-217 new)

18 Sec. 2-217. Notification of violations. When the
19 Department issues any notice pursuant to Section 3-119,
20 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice
21 of federal Medicaid certification deficiencies, the facility
22 shall provide notification of the violations and deficiencies
23 within 10 days after receiving a notice described within this
24 Section to every resident and the resident's representative or
25 guardian identified or referred to anywhere within the

1 Department notice or the CMS 2567 as having received care or
2 services that violated State or federal standards. The
3 notification shall include a Department-prescribed
4 notification letter as determined by rule and a copy of the
5 notice and CMS 2567, if any, issued by the Department. A
6 facility's failure to provide notification pursuant to this
7 Section to a resident and the resident's representative or
8 guardian, if any, shall constitute a Type "B" violation.

9 (210 ILCS 47/2-218 new)

10 Sec. 2-218. Minimum staffing in long-term care facilities
11 for under age 22 residents. Facility staffing shall be based
12 on the all the needs of the residents and comply with
13 Department rules as set forth under Section 3-202 of this Act.
14 Facilities for under age 22 residents shall provide each
15 resident, regardless of age, no less than 4.0 hours of nursing
16 and personal care time each day. The Department shall establish
17 by rule the amount of registered or other licensed nurse and
18 professional care time from the total 4.0 nursing and personal
19 care time that shall be provided each day. A facility's failure
20 to comply with this Section shall constitute a Type "B"
21 violation.

22 (210 ILCS 47/3-109)

23 Sec. 3-109. Issuance of license based on Director's
24 findings. Upon receipt and review of an application for a

1 license made under this Article and inspection of the applicant
2 facility under this Article, the Director shall issue a license
3 if he or she finds:

4 (1) That the individual applicant, or the corporation,
5 partnership or other entity if the applicant is not an
6 individual, is a person responsible and suitable to operate
7 or to direct or participate in the operation of a facility
8 by virtue of financial capacity, appropriate business or
9 professional experience, a record of compliance with
10 lawful orders of the Department and lack of revocation of a
11 license during the previous 5 years and is not the owner of
12 a facility designated pursuant to Section 3-304.2 as a
13 distressed facility;

14 (2) That the facility is under the supervision of an
15 administrator who is licensed, if required, under the
16 Nursing Home Administrators Licensing and Disciplinary
17 Act, as now or hereafter amended; and

18 (3) That the facility is in substantial compliance with
19 this Act, and such other requirements for a license as the
20 Department by rule may establish under this Act.

21 (Source: P.A. 96-339, eff. 7-1-10.)

22 (210 ILCS 47/3-110)

23 Sec. 3-110. Contents and period of license.

24 (a) Any license granted by the Director shall state the
25 maximum bed capacity for which it is granted, the date the

1 license was issued, and the expiration date. Except as provided
2 in subsection (b), such licenses shall normally be issued for a
3 period of one year. However, the Director may issue licenses or
4 renewals for periods of not less than 6 months nor more than 18
5 months for facilities with annual licenses and not less than 18
6 months nor more than 30 months for facilities with 2-year
7 licenses in order to distribute the expiration dates of such
8 licenses throughout the calendar year, and fees for such
9 licenses shall be prorated on the basis of the portion of a
10 year for which they are issued. Each license shall be issued
11 only for the premises and persons named in the application and
12 shall not be transferable or assignable.

13 The Department shall require the licensee to comply with
14 the requirements of a court order issued under Section 3-515,
15 as a condition of licensing.

16 (b) A license for a period of 2 years shall be issued to a
17 facility if the facility:

18 (1) has not received a Type "AA" violation within the
19 last 12 months;

20 (1.5) ~~(1)~~ has not received a Type "A" violation within
21 the last 24 months;

22 (2) has not received a Type "B" violation within the
23 last 24 months;

24 (3) has not had an inspection, survey, or evaluation
25 that resulted in the issuance of 10 or more administrative
26 warnings in the last 24 months;

1 (4) has not had an inspection, survey, or evaluation
2 that resulted in an administrative warning issued for a
3 violation of Sections 3-401 through 3-413 in the last 24
4 months;

5 (5) has not been issued an order to reimburse a
6 resident for a violation of Article II under subsection (6)
7 of Section 3-305 in the last 24 months; and

8 (6) has not been subject to sanctions or
9 decertification for violations in relation to patient care
10 of a facility under Titles XVIII and XIX of the federal
11 Social Security Act within the last 24 months.

12 If a facility with a 2-year license fails to meet the
13 conditions in items (1) through (6) of this subsection, in
14 addition to any other sanctions that may be applied by the
15 Department under this Act, the facility's 2-year license shall
16 be replaced by a one year license until such time as the
17 facility again meets the conditions in items (1) through (6) of
18 this subsection.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (210 ILCS 47/3-112)

21 Sec. 3-112. Transfer of ownership; license.

22 (a) Whenever ownership of a facility is transferred from
23 the person named in the license to any other person, the
24 transferee must obtain a new probationary license. The
25 transferee shall notify the Department of the transfer and

1 apply for a new license at least 30 days prior to final
2 transfer. The Department may not approve the transfer of
3 ownership to an owner of a facility designated pursuant to
4 Section 3-304.2 of this Act as a distressed facility.

5 (b) The transferor shall notify the Department at least 30
6 days prior to final transfer. The transferor shall remain
7 responsible for the operation of the facility until such time
8 as a license is issued to the transferee.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/3-117)

11 Sec. 3-117. Denial of license; grounds. An application for
12 a license may be denied for any of the following reasons:

13 (1) Failure to meet any of the minimum standards set
14 forth by this Act or by rules and regulations promulgated
15 by the Department under this Act.

16 (2) Conviction of the applicant, or if the applicant is
17 a firm, partnership or association, of any of its members,
18 or if a corporation, the conviction of the corporation or
19 any of its officers or stockholders, or of the person
20 designated to manage or supervise the facility, of a
21 felony, or of 2 or more misdemeanors involving moral
22 turpitude, during the previous 5 years as shown by a
23 certified copy of the record of the court of conviction.

24 (3) Personnel insufficient in number or unqualified by
25 training or experience to properly care for the proposed

1 number and type of residents.

2 (4) Insufficient financial or other resources to
3 operate and conduct the facility in accordance with
4 standards promulgated by the Department under this Act.

5 (5) Revocation of a facility license during the
6 previous 5 years, if such prior license was issued to the
7 individual applicant, a controlling owner or controlling
8 combination of owners of the applicant; or any affiliate of
9 the individual applicant or controlling owner of the
10 applicant and such individual applicant, controlling owner
11 of the applicant or affiliate of the applicant was a
12 controlling owner of the prior license; provided, however,
13 that the denial of an application for a license pursuant to
14 this subsection must be supported by evidence that such
15 prior revocation renders the applicant unqualified or
16 incapable of meeting or maintaining a facility in
17 accordance with the standards and rules promulgated by the
18 Department under this Act.

19 (6) That the facility is not under the direct
20 supervision of a full time administrator, as defined by
21 regulation, who is licensed, if required, under the Nursing
22 Home Administrators Licensing and Disciplinary Act.

23 (7) That the facility is in receivership and the
24 proposed licensee has not submitted a specific detailed
25 plan to bring the facility into compliance with the
26 requirements of this Act and with federal certification

1 requirements, if the facility is certified, and to keep the
2 facility in such compliance.

3 (8) The applicant is the owner of a facility designated
4 pursuant to Section 3-304.2 of this Act as a distressed
5 facility.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 47/3-119)

8 Sec. 3-119. Suspension, revocation, or refusal to renew
9 license.

10 (a) The Department, after notice to the applicant or
11 licensee, may suspend, revoke or refuse to renew a license in
12 any case in which the Department finds any of the following:

13 (1) There has been a substantial failure to comply with
14 this Act or the rules and regulations promulgated by the
15 Department under this Act. A substantial failure by a
16 facility shall include, but not be limited to, any of the
17 following:

18 (A) termination of Medicare or Medicaid
19 certification by the Centers for Medicare and Medicaid
20 Services; or

21 (B) a failure by the facility to pay any fine
22 assessed under this Act after the Department has sent
23 to the facility and licensee at least 2 notices of
24 assessment that include a schedule of payments as
25 determined by the Department, taking into account

1 extenuating circumstances and financial hardships of
2 the facility.

3 (2) Conviction of the licensee, or of the person
4 designated to manage or supervise the facility, of a
5 felony, or of 2 or more misdemeanors involving moral
6 turpitude, during the previous 5 years as shown by a
7 certified copy of the record of the court of conviction.

8 (3) Personnel is insufficient in number or unqualified
9 by training or experience to properly care for the number
10 and type of residents served by the facility.

11 (4) Financial or other resources are insufficient to
12 conduct and operate the facility in accordance with
13 standards promulgated by the Department under this Act.

14 (5) The facility is not under the direct supervision of
15 a full time administrator, as defined by regulation, who is
16 licensed, if required, under the Nursing Home
17 Administrators Licensing and Disciplinary Act.

18 (6) The facility has committed 2 Type "AA" violations
19 within a 2-year period.

20 (7) The facility has committed a Type "AA" violation
21 while the facility is listed as a "distressed facility".

22 (b) Notice under this Section shall include a clear and
23 concise statement of the violations on which the nonrenewal or
24 revocation is based, the statute or rule violated and notice of
25 the opportunity for a hearing under Section 3-703.

26 (c) If a facility desires to contest the nonrenewal or

1 revocation of a license, the facility shall, within 10 days
2 after receipt of notice under subsection (b) of this Section,
3 notify the Department in writing of its request for a hearing
4 under Section 3-703. Upon receipt of the request the Department
5 shall send notice to the facility and hold a hearing as
6 provided under Section 3-703.

7 (d) The effective date of nonrenewal or revocation of a
8 license by the Department shall be any of the following:

9 (1) Until otherwise ordered by the circuit court,
10 revocation is effective on the date set by the Department
11 in the notice of revocation, or upon final action after
12 hearing under Section 3-703, whichever is later.

13 (2) Until otherwise ordered by the circuit court,
14 nonrenewal is effective on the date of expiration of any
15 existing license, or upon final action after hearing under
16 Section 3-703, whichever is later; however, a license shall
17 not be deemed to have expired if the Department fails to
18 timely respond to a timely request for renewal under this
19 Act or for a hearing to contest nonrenewal under paragraph
20 (c).

21 (3) The Department may extend the effective date of
22 license revocation or expiration in any case in order to
23 permit orderly removal and relocation of residents.

24 The Department may refuse to issue or may suspend the
25 license of any person who fails to file a return, or to pay the
26 tax, penalty or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty or interest, as required by
2 any tax Act administered by the Illinois Department of Revenue,
3 until such time as the requirements of any such tax Act are
4 satisfied.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/3-119.1 new)

7 Sec. 3-119.1. Ban on new admissions.

8 (a) Upon a finding by the Department that there has been a
9 substantial failure to comply with this Act or the rules and
10 regulations promulgated by the Department under this Act,
11 including, without limitation, the circumstances set forth in
12 subsection (a) of Section 3-119 of this Act, or if the
13 Department otherwise finds that it would be in the public
14 interest or the interest of the health, safety, and welfare of
15 facility residents, the Department may impose a ban on new
16 admissions to any facility licensed under this Act. The ban
17 shall continue until such time as the Department determines
18 that the circumstances giving rise to the ban no longer exist.

19 (b) The Department shall provide notice to the facility and
20 license of any ban imposed pursuant to subsection (a) of this
21 Section. The notice shall provide a clear and concise statement
22 of the circumstances on which the ban on new admissions is
23 based and notice of the opportunity for a hearing. If the
24 Department finds that the public interest or the health,
25 safety, or welfare of facility residents imperatively requires

1 immediate action and if the Department incorporates a finding
2 to that effect in its notice, then the ban on new admissions
3 may be ordered pending any hearing requested by the facility.
4 Those proceedings shall be promptly instituted and determined.
5 The Department shall promulgate rules defining the
6 circumstances under which a ban on new admissions may be
7 imposed.

8 (210 ILCS 47/3-202)

9 Sec. 3-202. Standards for facilities. The Department shall
10 prescribe minimum standards for facilities. These standards
11 shall regulate:

12 (1) Location and construction of the facility,
13 including plumbing, heating, lighting, ventilation, and
14 other physical conditions which shall ensure the health,
15 safety, and comfort of residents and their protection from
16 fire hazard;

17 (2) To the extent this Act has not established minimum
18 staffing requirements within this Act, the numbers ~~Number~~
19 and qualifications of all personnel, including management
20 and nursing personnel, having responsibility for any part
21 of the care given to residents; specifically, the
22 Department shall establish staffing ratios for facilities
23 which shall specify the number of staff hours per resident
24 of care that are needed for professional nursing care for
25 various types of facilities or areas within facilities;

1 (3) All sanitary conditions within the facility and its
2 surroundings, including water supply, sewage disposal,
3 food handling, and general hygiene, which shall ensure the
4 health and comfort of residents;

5 (4) Diet related to the needs of each resident based on
6 good nutritional practice and on recommendations which may
7 be made by the physicians attending the resident;

8 (5) Equipment essential to the health and welfare of
9 the residents;

10 (6) A program of habilitation and rehabilitation for
11 those residents who would benefit from such programs;

12 (7) A program for adequate maintenance of physical
13 plant and equipment;

14 (8) Adequate accommodations, staff and services for
15 the number and types of residents for whom the facility is
16 licensed to care, including standards for temperature and
17 relative humidity within comfort zones determined by the
18 Department based upon a combination of air temperature,
19 relative humidity and air movement. Such standards shall
20 also require facility plans that provide for health and
21 comfort of residents at medical risk as determined by the
22 attending physician whenever the temperature and relative
23 humidity are outside such comfort zones established by the
24 Department. The standards must include a requirement that
25 areas of a facility used by residents of the facility be
26 air-conditioned and heated by means of operable

1 air-conditioning and heating equipment. The areas subject
2 to this air-conditioning and heating requirement include,
3 without limitation, bedrooms or common areas such as
4 sitting rooms, activity rooms, living rooms, community
5 rooms, and dining rooms;

6 (9) Development of evacuation and other appropriate
7 safety plans for use during weather, health, fire, physical
8 plant, environmental and national defense emergencies; and

9 (10) Maintenance of minimum financial or other
10 resources necessary to meet the standards established
11 under this Section, and to operate and conduct the facility
12 in accordance with this Act.

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 (210 ILCS 47/3-202.2a new)

15 Sec. 3-202.2a. Comprehensive resident care plan. A
16 facility, with the participation of the resident and the
17 resident's guardian or resident's representative, as
18 applicable, must develop and implement a comprehensive care
19 plan for each resident that includes measurable objectives and
20 timetables to meet the resident's medical, nursing, mental
21 health, psychosocial, and habilitation needs that are
22 identified in the resident's comprehensive assessment that
23 allows the resident to attain or maintain the highest
24 practicable level of independent functioning and provide for
25 discharge planning to the least restrictive setting based on

1 the resident's care needs. The assessment shall be developed
2 with the active participation of the resident and the
3 resident's guardian or resident's representative, as
4 applicable.

5 (210 ILCS 47/3-206)

6 Sec. 3-206. Curriculum for training nursing assistants and
7 aides. The Department shall prescribe a curriculum for training
8 nursing assistants, habilitation aides, and child care aides.

9 (a) No person, except a volunteer who receives no
10 compensation from a facility and is not included for the
11 purpose of meeting any staffing requirements set forth by the
12 Department, shall act as a nursing assistant, habilitation
13 aide, or child care aide in a facility, nor shall any person,
14 under any other title, not licensed, certified, or registered
15 to render medical care by the Department of Financial and
16 Professional Regulation, assist with the personal, medical, or
17 nursing care of residents in a facility, unless such person
18 meets the following requirements:

19 (1) Be at least 16 years of age, of temperate habits
20 and good moral character, honest, reliable and
21 trustworthy.

22 (2) Be able to speak and understand the English
23 language or a language understood by a substantial
24 percentage of the facility's residents.

25 (3) Provide evidence of employment or occupation, if

1 any, and residence for 2 years prior to his or her present
2 employment.

3 (4) Have completed at least 8 years of grade school or
4 provide proof of equivalent knowledge.

5 (5) Begin a current course of training for nursing
6 assistants, habilitation aides, or child care aides,
7 approved by the Department, within 45 days of initial
8 employment in the capacity of a nursing assistant,
9 habilitation aide, or child care aide at any facility. Such
10 courses of training shall be successfully completed within
11 120 days of initial employment in the capacity of nursing
12 assistant, habilitation aide, or child care aide at a
13 facility. Nursing assistants, habilitation aides, and
14 child care aides who are enrolled in approved courses in
15 community colleges or other educational institutions on a
16 term, semester or trimester basis, shall be exempt from the
17 120-day completion time limit. The Department shall adopt
18 rules for such courses of training. These rules shall
19 include procedures for facilities to carry on an approved
20 course of training within the facility.

21 The Department may accept comparable training in lieu
22 of the 120-hour course for student nurses, foreign nurses,
23 military personnel, or employees of the Department of Human
24 Services.

25 The facility shall develop and implement procedures,
26 which shall be approved by the Department, for an ongoing

1 review process, which shall take place within the facility,
2 for nursing assistants, habilitation aides, and child care
3 aides.

4 At the time of each regularly scheduled licensure
5 survey, or at the time of a complaint investigation, the
6 Department may require any nursing assistant, habilitation
7 aide, or child care aide to demonstrate, either through
8 written examination or action, or both, sufficient
9 knowledge in all areas of required training. If such
10 knowledge is inadequate the Department shall require the
11 nursing assistant, habilitation aide, or child care aide to
12 complete inservice training and review in the facility
13 until the nursing assistant, habilitation aide, or child
14 care aide demonstrates to the Department, either through
15 written examination or action, or both, sufficient
16 knowledge in all areas of required training; and

17 (6) Be familiar with and have general skills related to
18 resident care.

19 (a-0.5) An educational entity, other than a secondary
20 school, conducting a nursing assistant, habilitation aide, or
21 child care aide training program shall initiate a ~~UCIA~~ criminal
22 history record check in accordance with the Health Care Worker
23 Background Check Act prior to entry of an individual into the
24 training program. A secondary school may initiate a ~~UCIA~~
25 criminal history record check in accordance with the Health
26 Care Worker Background Check Act at any time during or after

1 ~~prior to the entry of an individual into~~ a training program.

2 (a-1) Nursing assistants, habilitation aides, or child
3 care aides seeking to be included on the registry maintained
4 under Section 3-206.01 of this Act must authorize the
5 Department of Public Health or its designee ~~that tests nursing~~
6 ~~assistants~~ to request a ~~UCIA~~ criminal history record check in
7 accordance with the Health Care Worker Background Check Act and
8 submit all necessary information. An individual may not newly
9 be included on the registry unless a criminal history record
10 check has been conducted with respect to the individual.

11 (b) Persons subject to this Section shall perform their
12 duties under the supervision of a licensed nurse or other
13 appropriately trained, licensed, or certified personnel.

14 (c) It is unlawful for any facility to employ any person in
15 the capacity of nursing assistant, habilitation aide, or child
16 care aide, or under any other title, not licensed by the State
17 of Illinois to assist in the personal, medical, or nursing care
18 of residents in such facility unless such person has complied
19 with this Section.

20 (d) Proof of compliance by each employee with the
21 requirements set out in this Section shall be maintained for
22 each such employee by each facility in the individual personnel
23 folder of the employee. Proof of training shall be obtained
24 only from the health care worker registry.

25 (e) Each facility shall obtain access to the health care
26 worker registry's web application, maintain the employment and

1 ~~demographic information relating to~~ certify to the Department
2 ~~on a form provided by the Department the name and residence~~
3 ~~address~~ of each employee, and verify by the category and type
4 of employment that each employee subject to this Section meets
5 all the requirements of this Section.

6 (f) Any facility that is operated under Section 3-803 shall
7 be exempt from the requirements of this Section.

8 (g) Each skilled nursing and intermediate care facility
9 that admits persons who are diagnosed as having Alzheimer's
10 disease or related dementias shall require all nursing
11 assistants, habilitation aides, or child care aides, who did
12 not receive 12 hours of training in the care and treatment of
13 such residents during the training required under paragraph (5)
14 of subsection (a), to obtain 12 hours of in house training in
15 the care and treatment of such residents. If the facility does
16 not provide the training in house, the training shall be
17 obtained from other facilities, community colleges or other
18 educational institutions that have a recognized course for such
19 training. The Department shall, by rule, establish a recognized
20 course for such training.

21 The Department's rules shall provide that such training may
22 be conducted in house at each facility subject to the
23 requirements of this subsection, in which case such training
24 shall be monitored by the Department. The Department's rules
25 shall also provide for circumstances and procedures whereby any
26 person who has received training that meets the requirements of

1 this subsection shall not be required to undergo additional
2 training if he or she is transferred to or obtains employment
3 at a different facility or a facility other than those licensed
4 under this Act but remains continuously employed as a nursing
5 assistant, habilitation aide, or child care aide. Individuals
6 who have performed no nursing, nursing-related services, or
7 habilitation services for a period of 24 consecutive months
8 shall be listed as inactive and as such do not meet the
9 requirements of this Section. Licensed sheltered care
10 facilities shall be exempt from the requirements of this
11 Section.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 (210 ILCS 47/3-206.01)

14 Sec. 3-206.01. Health care worker registry.

15 (a) The Department shall establish and maintain a registry
16 of all individuals who (i) have satisfactorily completed the
17 training required by Section 3-206, (ii) have begun a current
18 course of training as set forth in Section 3-206, or (iii) are
19 otherwise acting as a nursing assistant, habilitation aide,
20 home health aide, or child care aide. The registry shall
21 include the individual's name ~~of the nursing assistant,~~
22 ~~habilitation aide, or child care aide,~~ his or her current
23 address, Social Security number, and whether the individual has
24 any of the disqualifying convictions listed in Section 25 of
25 the Health Care Worker Background Check Act from the date and

1 location of the training course completed by the individual,
2 and the date of the individual's last criminal records check.
3 Any individual placed on the registry is required to inform the
4 Department of any change of address within 30 days. A facility
5 shall not employ an individual as a nursing assistant,
6 habilitation aide, home health aide, or child care aide, or
7 newly hired as an individual who may have access to a resident,
8 a resident's living quarters, or a resident's personal,
9 financial, or medical records, unless the facility has inquired
10 of the Department's health care worker registry ~~Department~~ as
11 to information in the registry concerning the individual. The
12 facility ~~and~~ shall not employ an individual as a nursing
13 assistant, habilitation aide, or child care aide if that
14 individual is anyone not on the registry unless the individual
15 is enrolled in a training program under paragraph (5) of
16 subsection (a) of Section 3-206 of this Act.

17 If the Department finds that a nursing assistant,
18 habilitation aide, home health aide, ~~or~~ child care aide, or an
19 unlicensed individual, has abused or neglected a resident or an
20 individual under his or her care, ~~neglected a resident,~~ or
21 misappropriated ~~resident~~ property of a resident or an
22 individual under his or her care in a facility, the Department
23 shall notify the individual of this finding by certified mail
24 sent to the address contained in the registry. The notice shall
25 give the individual an opportunity to contest the finding in a
26 hearing before the Department or to submit a written response

1 to the findings in lieu of requesting a hearing. If, after a
2 hearing or if the individual does not request a hearing, the
3 Department finds that the individual abused a resident,
4 neglected a resident, or misappropriated resident property in a
5 facility, the finding shall be included as part of the registry
6 as well as a clear and accurate summary ~~brief~~ statement from
7 the individual, if he or she chooses to make such a statement.
8 The Department shall make the following information in the
9 registry available to the public: an individual's full name;
10 the date an individual successfully completed a nurse aide
11 training or competency evaluation; and whether the Department
12 has made a finding that an individual has been guilty of abuse
13 or neglect of a resident or misappropriation of resident's
14 property. In the case of inquiries to the registry concerning
15 an individual listed in the registry, any information disclosed
16 concerning such a finding shall also include disclosure of the
17 individual's ~~any~~ statement in the registry relating to the
18 finding or a clear and accurate summary of the statement.

19 (b) The Department shall add to the health care worker
20 registry records of findings as reported by the Inspector
21 General or remove from the health care worker registry records
22 of findings as reported by the Department of Human Services,
23 under subsection (g-5) of Section 1-17 of the Department of
24 Human Services Act.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/3-206.02)

2 Sec. 3-206.02. Designation on registry for offense.

3 (a) The Department, after notice to the nursing assistant,
4 habilitation aide, home health aide, or child care aide, may
5 designate that the Department has found any of the following:

6 (1) The nursing assistant, habilitation aide, home
7 health aide, or child care aide has abused a resident.

8 (2) The nursing assistant, habilitation aide, home
9 health aide, or child care aide has neglected a resident.

10 (3) The nursing assistant, habilitation aide, home
11 health aide, or child care aide has misappropriated
12 resident property.

13 (4) The nursing assistant, habilitation aide, home
14 health aide, or child care aide has been convicted of (i) a
15 felony, (ii) a misdemeanor, an essential element of which
16 is dishonesty, or (iii) any crime that is directly related
17 to the duties of a nursing assistant, habilitation aide, or
18 child care aide.

19 (b) Notice under this Section shall include a clear and
20 concise statement of the grounds denoting abuse, neglect, or
21 theft and notice of the opportunity for a hearing to contest
22 the designation.

23 (c) The Department may designate any nursing assistant,
24 habilitation aide, home health aide, or child care aide on the
25 registry who fails (i) to file a return, (ii) to pay the tax,
26 penalty or interest shown in a filed return, or (iii) to pay

1 any final assessment of tax, penalty or interest, as required
2 by any tax Act administered by the Illinois Department of
3 Revenue, until the time the requirements of the tax Act are
4 satisfied.

5 (c-1) The Department shall document criminal background
6 check results pursuant to the requirements of the Health Care
7 Worker Background Check Act.

8 (d) At any time after the designation on the registry
9 pursuant to subsection (a), (b), or (c) of this Section, a
10 nursing assistant, habilitation aide, home health aide, or
11 child care aide may petition the Department for removal of a
12 designation of neglect on the registry. The Department may
13 remove the designation of neglect of the nursing assistant,
14 habilitation aide, home health aide, or child care aide on the
15 registry unless, after an investigation and a hearing, the
16 Department determines that removal of designation is not in the
17 public interest.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-212)

20 Sec. 3-212. Inspection of facility by Department; report.

21 (a) The Department, whenever it deems necessary in
22 accordance with subsection (b), shall inspect, survey and
23 evaluate every facility to determine compliance with
24 applicable licensure requirements and standards. Submission of
25 a facility's current Consumer Choice Information Report

1 required by Section 2-214 shall be verified at the time of
2 inspection. An inspection should occur within 120 days prior to
3 license renewal. The Department may periodically visit a
4 facility for the purpose of consultation. An inspection,
5 survey, or evaluation, other than an inspection of financial
6 records, shall be conducted without prior notice to the
7 facility. A visit for the sole purpose of consultation may be
8 announced. The Department shall provide training to surveyors
9 about the appropriate assessment, care planning, and care of
10 persons with mental illness (other than Alzheimer's disease or
11 related disorders) to enable its surveyors to determine whether
12 a facility is complying with State and federal requirements
13 about the assessment, care planning, and care of those persons.

14 (a-1) An employee of a State or unit of local government
15 agency charged with inspecting, surveying, and evaluating
16 facilities who directly or indirectly gives prior notice of an
17 inspection, survey, or evaluation, other than an inspection of
18 financial records, to a facility or to an employee of a
19 facility is guilty of a Class A misdemeanor. An inspector or an
20 employee of the Department who intentionally prenotifies a
21 facility, orally or in writing, of a pending complaint
22 investigation or inspection shall be guilty of a Class A
23 misdemeanor. Superiors of persons who have prenotified a
24 facility shall be subject to the same penalties, if they have
25 knowingly allowed the prenotification. A person found guilty of
26 prenotifying a facility shall be subject to disciplinary action

1 by his or her employer. If the Department has a good faith
2 belief, based upon information that comes to its attention,
3 that a violation of this subsection has occurred, it must file
4 a complaint with the Attorney General or the State's Attorney
5 in the county where the violation took place within 30 days
6 after discovery of the information.

7 (a-2) An employee of a State or unit of local government
8 agency charged with inspecting, surveying, or evaluating
9 facilities who willfully profits from violating the
10 confidentiality of the inspection, survey, or evaluation
11 process shall be guilty of a Class 4 felony and that conduct
12 shall be deemed unprofessional conduct that may subject a
13 person to loss of his or her professional license. An action to
14 prosecute a person for violating this subsection (a-2) may be
15 brought by either the Attorney General or the State's Attorney
16 in the county where the violation took place.

17 (b) In determining whether to make more than the required
18 number of unannounced inspections, surveys and evaluations of a
19 facility the Department shall consider one or more of the
20 following: previous inspection reports; the facility's history
21 of compliance with standards, rules and regulations
22 promulgated under this Act and correction of violations,
23 penalties or other enforcement actions; the number and severity
24 of complaints received about the facility; any allegations of
25 resident abuse or neglect; weather conditions; health
26 emergencies; other reasonable belief that deficiencies exist.

1 (b-1) The Department shall not be required to determine
2 whether a facility certified to participate in the Medicare
3 program under Title XVIII of the Social Security Act, or the
4 Medicaid program under Title XIX of the Social Security Act,
5 and which the Department determines by inspection under this
6 Section or under Section 3-702 of this Act to be in compliance
7 with the certification requirements of Title XVIII or XIX, is
8 in compliance with any requirement of this Act that is less
9 stringent than or duplicates a federal certification
10 requirement. In accordance with subsection (a) of this Section
11 or subsection (d) of Section 3-702, the Department shall
12 determine whether a certified facility is in compliance with
13 requirements of this Act that exceed federal certification
14 requirements. If a certified facility is found to be out of
15 compliance with federal certification requirements, the
16 results of an inspection conducted pursuant to Title XVIII or
17 XIX of the Social Security Act may be used as the basis for
18 enforcement remedies authorized and commenced, with the
19 Department's discretion to evaluate whether penalties are
20 warranted, under this Act. Enforcement of this Act against a
21 certified facility shall be commenced pursuant to the
22 requirements of this Act, unless enforcement remedies sought
23 pursuant to Title XVIII or XIX of the Social Security Act
24 exceed those authorized by this Act. As used in this
25 subsection, "enforcement remedy" means a sanction for
26 violating a federal certification requirement or this Act.

1 (c) Upon completion of each inspection, survey and
2 evaluation, the appropriate Department personnel who conducted
3 the inspection, survey or evaluation shall submit a copy of
4 their report to the licensee upon exiting the facility, and
5 shall submit the actual report to the appropriate regional
6 office of the Department. Such report and any recommendations
7 for action by the Department under this Act shall be
8 transmitted to the appropriate offices of the associate
9 director of the Department, together with related comments or
10 documentation provided by the licensee which may refute
11 findings in the report, which explain extenuating
12 circumstances that the facility could not reasonably have
13 prevented, or which indicate methods and timetables for
14 correction of deficiencies described in the report. Without
15 affecting the application of subsection (a) of Section 3-303,
16 any documentation or comments of the licensee shall be provided
17 within 10 days of receipt of the copy of the report. Such
18 report shall recommend to the Director appropriate action under
19 this Act with respect to findings against a facility. The
20 Director shall then determine whether the report's findings
21 constitute a violation or violations of which the facility must
22 be given notice. Such determination shall be based upon the
23 severity of the finding, the danger posed to resident health
24 and safety, the comments and documentation provided by the
25 facility, the diligence and efforts to correct deficiencies,
26 correction of the reported deficiencies, the frequency and

1 duration of similar findings in previous reports and the
2 facility's general inspection history. The Department
3 ~~Violations~~ shall determine violations ~~be determined~~ under this
4 subsection no later than 90 ~~60~~ days after completion of each
5 inspection, survey and evaluation.

6 (d) The Department shall maintain all inspection, survey
7 and evaluation reports for at least 5 years in a manner
8 accessible to and understandable by the public.

9 (e) The Department shall conduct a revisit to its licensure
10 and certification surveys, consistent with federal regulations
11 and guidelines.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 (210 ILCS 47/3-303)

14 Sec. 3-303. Correction of violations; hearing.

15 (a) The situation, condition or practice constituting a
16 Type "AA" violation or a Type "A" violation shall be abated or
17 eliminated immediately unless a fixed period of time, not
18 exceeding 15 days, as determined by the Department and
19 specified in the notice of violation, is required for
20 correction.

21 (b) At the time of issuance of a notice of a Type "B"
22 violation, the Department shall request a plan of correction
23 which is subject to the Department's approval. The facility
24 shall have 10 days after receipt of notice of violation in
25 which to prepare and submit a plan of correction. The

1 Department may extend this period up to 30 days where
2 correction involves substantial capital improvement. The plan
3 shall include a fixed time period not in excess of 90 days
4 within which violations are to be corrected. If the Department
5 rejects a plan of correction, it shall send notice of the
6 rejection and the reason for the rejection to the facility. The
7 facility shall have 10 days after receipt of the notice of
8 rejection in which to submit a modified plan. If the modified
9 plan is not timely submitted, or if the modified plan is
10 rejected, the facility shall follow an approved plan of
11 correction imposed by the Department.

12 (c) If the violation has been corrected prior to submission
13 and approval of a plan of correction, the facility may submit a
14 report of correction in place of a plan of correction. Such
15 report shall be signed by the administrator under oath.

16 (d) Upon a licensee's petition, the Department shall
17 determine whether to grant a licensee's request for an extended
18 correction time. Such petition shall be served on the
19 Department prior to expiration of the correction time
20 originally approved. The burden of proof is on the petitioning
21 facility to show good cause for not being able to comply with
22 the original correction time approved.

23 (e) If a facility desires to contest any Department action
24 under this Section it shall send a written request for a
25 hearing under Section 3-703 to the Department within 10 days of
26 receipt of notice of the contested action. The Department shall

1 commence the hearing as provided under Section 3-703. Whenever
2 possible, all action of the Department under this Section
3 arising out of a violation shall be contested and determined at
4 a single hearing. Issues decided after a hearing may not be
5 reheard at subsequent hearings under this Section.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 47/3-303.2)

8 Sec. 3-303.2. Administrative warning.

9 (a) If the Department finds a situation, condition or
10 practice which violates this Act or any rule promulgated
11 thereunder which does not constitute a Type "AA", Type "A",
12 Type "B", or Type "C" violation ~~directly threaten the health,~~
13 ~~safety or welfare of a resident,~~ the Department shall issue an
14 administrative warning. Any administrative warning shall be
15 served upon the facility in the same manner as the notice of
16 violation under Section 3-301. The facility shall be
17 responsible for correcting the situation, condition or
18 practice; however, no written plan of correction need be
19 submitted for an administrative warning, except for violations
20 of Sections 3-401 through 3-413 or the rules promulgated
21 thereunder. A written plan of correction is required to be
22 filed for an administrative warning issued for violations of
23 Sections 3-401 through 3-413 or the rules promulgated
24 thereunder.

25 (b) If, however, the situation, condition or practice which

1 resulted in the issuance of an administrative warning, with the
2 exception of administrative warnings issued pursuant to
3 Sections 3-401 through 3-413 or the rules promulgated
4 thereunder, is not corrected by the next on site inspection by
5 the Department which occurs no earlier than 90 days from the
6 issuance of the administrative warning, a written plan of
7 correction must be submitted in the same manner as provided in
8 subsection (b) of Section 3-303.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/3-304.1)

11 Sec. 3-304.1. Public computer access to information.

12 (a) The Department must make information regarding nursing
13 homes in the State available to the public in electronic form
14 on the World Wide Web, including all of the following
15 information:

16 (1) who regulates facilities licensed under this Act;

17 (2) information in the possession of the Department
18 that is listed in Sections 3-210 and 3-304;

19 (3) deficiencies and plans of correction;

20 (4) enforcement remedies;

21 (5) penalty letters;

22 (6) designation of penalty monies;

23 (7) the U.S. Department of Health and Human Services'
24 Health Care Financing Administration special projects or
25 federally required inspections;

- 1 (8) advisory standards;
- 2 (9) deficiency free surveys; ~~and~~
- 3 (10) enforcement actions and enforcement summaries;
4 and-
- 5 (11) distressed facilities.

6 (b) No fee or other charge may be imposed by the Department
7 as a condition of accessing the information.

8 (c) The electronic public access provided through the World
9 Wide Web shall be in addition to any other electronic or print
10 distribution of the information.

11 (d) The information shall be made available as provided in
12 this Section in the shortest practicable time after it is
13 publicly available in any other form.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-304.2 new)

16 Sec. 3-304.2. Designation of distressed facilities.

17 (a) The Department shall, by rule, adopt criteria to
18 identify facilities that are distressed and shall publish this
19 list quarterly. No facility shall be identified as a distressed
20 facility unless it has committed violations or deficiencies
21 that have actually harmed residents.

22 (b) The Department shall notify each facility and licensee
23 of its distressed designation and of the calculation on which
24 it is based.

25 (c) A distressed facility may contract with an independent

1 consultant meeting criteria established by the Department. If
2 the distressed facility does not seek the assistance of an
3 independent consultant, then the Department shall place a
4 monitor or a temporary manager in the facility, depending on
5 the Department's assessment of the condition of the facility.

6 (d) A facility that has been designated a distressed
7 facility may contract with an independent consultant to develop
8 and assist in the implementation of a plan of improvement to
9 bring and keep the facility in compliance with this Act and, if
10 applicable, with federal certification requirements. A
11 facility that contracts with an independent consultant shall
12 have 90 days to develop a plan of improvement and demonstrate a
13 good faith effort at implementation, and another 90 days to
14 achieve compliance and take whatever additional actions are
15 called for in the improvement plan to maintain compliance in
16 this subsection (d) "Independent" consultant means an
17 individual who has no professional or financial relationship
18 with the facility, any person with a reportable ownership
19 interest in the facility, or any related parties. In this
20 subsection (d), "related parties" has the meaning attributed to
21 it in the instructions for completing Medicaid cost reports.

22 (e) A distressed facility that does not contract with a
23 consultant shall be assigned a monitor or a temporary manager
24 at the Department's discretion. The cost of the temporary
25 manager shall be paid by the Department. The authority afforded
26 the temporary manager shall be determined through rulemaking.

1 If a distressed facility that contracts with an independent
2 consultant but does not, in a timely manner, develop an
3 adequate plan of improvement or comply with the plan of
4 improvement, then the Department may place a monitor in the
5 facility.

6 Nothing in this Section shall limit the authority of the
7 Department to place a monitor in a distressed facility if
8 otherwise justified by law.

9 (f) The Department shall by rule establish a mentor program
10 for owners of distressed facilities. That a mentor program does
11 not exist, or that a mentor is not available to assist a
12 distressed facility, shall not delay or prevent the imposition
13 of any penalties on a distressed facility, authorized by this
14 Act.

15 (210 ILCS 47/3-305)

16 Sec. 3-305. Penalties or fines. The license of a facility
17 which is in violation of this Act or any rule adopted
18 thereunder may be subject to the penalties or fines levied by
19 the Department as specified in this Section.

20 (1) ~~A Unless a greater penalty or fine is allowed under~~
21 ~~subsection (3),~~ a licensee who commits a Type "AA" "A"
22 violation as defined in Section 1-128.5 ~~1-129~~ is
23 automatically issued a conditional license for a period of
24 6 months to coincide with an acceptable plan of correction
25 and assessed a fine of up to \$25,000 per violation. For a

1 facility licensed to provide care to fewer than 100
2 residents, but no less than 17 residents, the fine shall be
3 up to \$18,500 per violation. For a facility licensed to
4 provide care to fewer than 17 residents, the fine shall be
5 up to \$12,500 per violation. ~~computed at a rate of \$5.00~~
6 ~~per resident in the facility plus 20 cents per resident for~~
7 ~~each day of the violation, commencing on the date a notice~~
8 ~~of the violation is served under Section 3-301 and ending~~
9 ~~on the date the violation is corrected, or a fine of not~~
10 ~~less than \$5,000, or when death, serious mental or physical~~
11 ~~harm, permanent disability, or disfigurement results, a~~
12 ~~fine of not less than \$10,000, whichever is greater.~~

13 (1.5) A licensee who commits a Type "A" violation as
14 defined in Section 1-129 is automatically issued a
15 conditional license for a period of 6 months to coincide
16 with an acceptable plan of correction and assessed a fine
17 of up to \$12,500 per violation. For a facility licensed to
18 provide care to fewer than 100 residents, but no less than
19 17 residents, the fine shall be up to \$10,000 per
20 violation. For a facility licensed to provide care to fewer
21 than 17 residents, the fine shall be up to \$6,250 per
22 violation.

23 (2) A licensee who commits a Type "B" violation as
24 defined in Section 1-130 shall be assessed a fine of up to
25 \$1,100 per violation. For a facility licensed to provide
26 care to fewer than 100 residents, but no less than 17

1 residents, the fine shall be up to \$750 per violation. For
2 a facility licensed to provide care to fewer than 17
3 residents, the fine shall be up to \$550 per violation. ~~or~~
4 ~~who is issued an administrative warning for a violation of~~
5 ~~Sections 3 401 through 3 413 or the rules promulgated~~
6 ~~thereunder is subject to a penalty computed at a rate of \$3~~
7 ~~per resident in the facility, plus 15 cents per resident~~
8 ~~for each day of the violation, commencing on the date a~~
9 ~~notice of the violation is served under Section 3 301 and~~
10 ~~ending on the date the violation is corrected, or a fine~~
11 ~~not less than \$500, whichever is greater. Such fine shall~~
12 ~~be assessed on the date of notice of the violation and~~
13 ~~shall be suspended for violations that continue after such~~
14 ~~date upon completion of a plan of correction in accordance~~
15 ~~with Section 3 308 in relation to the assessment of fines~~
16 ~~and correction. Failure to correct such violation within~~
17 ~~the time period approved under a plan of correction shall~~
18 ~~result in a fine and conditional license as provided under~~
19 ~~subsection (5).~~

20 (2.5) A licensee who commits 8 or more Type "C"
21 violations as defined in Section 1-132 in a single survey
22 shall be assessed a fine of up to \$250 per violation. A
23 facility licensed to provide care to fewer than 100
24 residents, but no less than 17 residents, that commits 8 or
25 more Type "C" violations in a single survey, shall be
26 assessed a fine of up to \$200 per violation. A facility

1 licensed to provide care to fewer than 17 residents, that
2 commits 8 or more Type "C" violations in a single survey,
3 shall be assessed a fine of up to \$175 per violation.

4 (3) A licensee who commits a Type "AA" or Type "A"
5 violation as defined in Section 1-128.5 or 1-129 which
6 continues beyond the time specified in paragraph (a) of
7 Section 3-303 which is cited as a repeat violation shall
8 have its license revoked and shall be assessed a fine of 3
9 times the fine computed ~~per resident per day~~ under
10 subsection (1).

11 (4) A licensee who fails to satisfactorily comply with
12 an accepted plan of correction for a Type "B" violation or
13 an administrative warning issued pursuant to Sections
14 3-401 through 3-413 or the rules promulgated thereunder
15 shall be automatically issued a conditional license for a
16 period of not less than 6 months. A second or subsequent
17 acceptable plan of correction shall be filed. A fine shall
18 be assessed in accordance with subsection (2) when cited
19 for the repeat violation. This fine shall be computed for
20 all days of the violation, including the duration of the
21 first plan of correction compliance time.

22 (5) (Blank). ~~For the purpose of computing a penalty~~
23 ~~under subsections (2) through (4), the number of residents~~
24 ~~per day shall be based on the average number of residents~~
25 ~~in the facility during the 30 days preceding the discovery~~
26 ~~of the violation.~~

1 (6) When the Department finds that a provision of
2 Article II has been violated with regard to a particular
3 resident, the Department shall issue an order requiring the
4 facility to reimburse the resident for injuries incurred,
5 or \$100, whichever is greater. In the case of a violation
6 involving any action other than theft of money belonging to
7 a resident, reimbursement shall be ordered only if a
8 provision of Article II has been violated with regard to
9 that or any other resident of the facility within the 2
10 years immediately preceding the violation in question.

11 (7) For purposes of assessing fines under this Section,
12 a repeat violation shall be a violation which has been
13 cited during one inspection of the facility for which an
14 accepted plan of correction was not complied with or. ~~A~~
15 ~~repeat violation shall not be~~ a new citation of the same
16 rule if, ~~unless~~ the licensee is not substantially
17 addressing the issue routinely throughout the facility.

18 (8) If an occurrence results in more than one type of
19 violation as defined in this Act (that is, a Type "AA",
20 Type "A", Type "B", or Type "C" violation), then the
21 maximum fine that may be assessed for that occurrence is
22 the maximum fine that may be assessed for the most serious
23 type of violation charged. For purposes of the preceding
24 sentence, a Type "AA" violation is the most serious type of
25 violation that may be charged, followed by a Type "A", Type
26 "B", or Type "C" violation, in that order.

1 (9) If any facility willfully makes a misstatement of
2 fact to the Department or willfully fails to make a
3 required notification to the Department and that
4 misstatement or failure delays the start of a survey or
5 impedes a survey, then it will constitute a Type "B"
6 violation. The minimum and maximum fines that may be
7 assessed pursuant to this subsection (9) shall be 3 times
8 those otherwise specified for any facility.

9 (10) If the Department finds that a facility has
10 violated a provision of the Illinois Administrative Code
11 that has a high risk designation or that a facility has
12 violated the same provision of the Illinois Administrative
13 Code 3 or more times in the previous 12 months, then the
14 Department may assess a fine of up to 2 times the maximum
15 fine otherwise allowed.

16 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

17 (210 ILCS 47/3-306)

18 Sec. 3-306. Factors to be considered in determining
19 penalty. In determining whether a penalty is to be imposed and
20 in determining ~~fixing~~ the amount of the penalty to be imposed,
21 if any, for a violation, the Director shall consider the
22 following factors:

23 (1) The gravity of the violation, including the
24 probability that death or serious physical or mental harm
25 to a resident will result or has resulted; the severity of

1 the actual or potential harm, and the extent to which the
2 provisions of the applicable statutes or regulations were
3 violated;

4 (2) The reasonable diligence exercised by the licensee
5 and efforts to correct violations;

6 (3) Any previous violations committed by the licensee;
7 and

8 (4) The financial benefit to the facility of committing
9 or continuing the violation.

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (210 ILCS 47/3-308)

12 Sec. 3-308. Time of assessment; plan of correction. In the
13 case of a Type Type "AA" or "A" violation, a penalty may be
14 assessed from the date on which the violation is discovered. In
15 the case of a Type "B" or Type "C" violation or an
16 administrative warning issued pursuant to Sections 3-401
17 through 3-413 or the rules promulgated thereunder, the facility
18 shall submit a plan of correction as provided in Section 3-303.
19 In the case of a Type "B" violation or an administrative
20 warning issued pursuant to Sections 3-401 through 3-413 or the
21 rules promulgated thereunder, a penalty shall be assessed on
22 the date of notice of the violation, but the Director may
23 reduce the amount or waive such payment for any of the
24 following reasons:

25 (a) The facility submits a true report of correction within

1 10 days;

2 (b) The facility submits a plan of correction within 10
3 days and subsequently submits a true report of correction
4 within 15 days thereafter;

5 (c) The facility submits a plan of correction within 10
6 days which provides for a correction time that is less than or
7 equal to 30 days and the Department approves such plan; or

8 (d) The facility submits a plan of correction for
9 violations involving substantial capital improvements which
10 provides for correction within the initial 90 day limit
11 provided under Section 3-303. The Director shall consider the
12 following factors in determinations to reduce or waive such
13 penalties:

14 (1) The violation has not caused actual harm to a
15 resident;

16 (2) The facility has made a diligent effort to correct
17 the violation and to prevent its recurrence;

18 (3) The facility has no record of a pervasive pattern
19 of the same or similar violations; and

20 (4) The facility has a record of substantial compliance
21 with this Act and the regulations promulgated hereunder.

22 If a plan of correction is approved and carried out for a
23 Type "C" violation, the fine provided under Section 3-305 shall
24 be suspended for the time period specified in the approved plan
25 of correction. If a plan of correction is approved and carried
26 out for a Type "B" violation or an administrative warning

1 issued pursuant to Sections 3-401 through 3-413 or the rules
2 promulgated thereunder, with respect to a violation that
3 continues after the date of notice of violation, the fine
4 provided under Section 3-305 shall be suspended for the time
5 period specified in the approved plan of correction.

6 If a good faith plan of correction is not received within
7 the time provided by Section 3-303, a penalty may be assessed
8 from the date of the notice of the Type "B" or "C" violation or
9 an administrative warning issued pursuant to Sections 3-401
10 through 3-413 or the rules promulgated thereunder served under
11 Section 3-301 until the date of the receipt of a good faith
12 plan of correction, or until the date the violation is
13 corrected, whichever is earlier. If a violation is not
14 corrected within the time specified by an approved plan of
15 correction or any lawful extension thereof, a penalty may be
16 assessed from the date of notice of the violation, until the
17 date the violation is corrected.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-309)

20 Sec. 3-309. Contesting assessment of penalty. A facility
21 may contest an assessment of a penalty by sending a written
22 request to the Department for hearing under Section 3-703. Upon
23 receipt of the request the Department shall hold a hearing as
24 provided under Section 3-703. Instead of requesting a hearing
25 pursuant to Section 3-703, a facility may, within 10 business

1 days after receipt of the notice of violation and fine
2 assessment, transmit to the Department 65% of the amount
3 assessed for each violation specified in the penalty
4 assessment.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/3-310)

7 Sec. 3-310. Collection of penalties. All penalties shall be
8 paid to the Department within 10 days of receipt of notice of
9 assessment or, if the penalty is contested under Section 3-309,
10 within 10 days of receipt of the final decision, unless the
11 decision is appealed and the order is stayed by court order
12 under Section 3-713. A facility choosing to waive the right to
13 a hearing under Section 3-309 shall submit a payment totaling
14 65% of the original fine amount along with the written waiver.

15 A penalty assessed under this Act shall be collected by the
16 Department and shall be deposited with the State Treasurer into
17 the Long Term Care Monitor/Receiver Fund. If the person or
18 facility against whom a penalty has been assessed does not
19 comply with a written demand for payment within 30 days, the
20 Director shall issue an order to do any of the following:

21 (1) Direct the State Treasurer or Comptroller to deduct
22 the amount of the fine from amounts otherwise due from the
23 State for the penalty, including any payments to be made
24 from the Developmentally Disabled Care Provider Fund
25 established under Section 5C-7 of the Illinois Public Aid

1 Code, and remit that amount to the Department;

2 (2) Add the amount of the penalty to the facility's
3 licensing fee; if the licensee refuses to make the payment
4 at the time of application for renewal of its license, the
5 license shall not be renewed; or

6 (3) Bring an action in circuit court to recover the
7 amount of the penalty.

8 ~~With the approval of the federal centers for Medicaid and~~
9 ~~Medicare services, the Director of Public Health shall set~~
10 ~~aside 50% of the federal civil monetary penalties collected~~
11 ~~each year to be used to award grants under the Innovations in~~
12 ~~Long term Care Quality Grants Act.~~

13 (Source: P.A. 96-339, eff. 7-1-10; revised 10-19-10.)

14 (210 ILCS 47/3-318)

15 Sec. 3-318. Business offenses.

16 (a) No person shall:

17 (1) Intentionally fail to correct or interfere with the
18 correction of a Type "AA", Type "A", or Type "B" violation
19 within the time specified on the notice or approved plan of
20 correction under this Act as the maximum period given for
21 correction, unless an extension is granted and the
22 corrections are made before expiration of extension;

23 (2) Intentionally prevent, interfere with, or attempt
24 to impede in any way any duly authorized investigation and
25 enforcement of this Act;

1 (3) Intentionally prevent or attempt to prevent any
2 examination of any relevant books or records pertinent to
3 investigations and enforcement of this Act;

4 (4) Intentionally prevent or interfere with the
5 preservation of evidence pertaining to any violation of
6 this Act or the rules promulgated under this Act;

7 (5) Intentionally retaliate or discriminate against
8 any resident or employee for contacting or providing
9 information to any state official, or for initiating,
10 participating in, or testifying in an action for any remedy
11 authorized under this Act;

12 (6) Willfully ~~Wilfully~~ file any false, incomplete or
13 intentionally misleading information required to be filed
14 under this Act, or willfully ~~wilfully~~ fail or refuse to
15 file any required information; or

16 (7) Open or operate a facility without a license.

17 (b) A violation of this Section is a business offense,
18 punishable by a fine not to exceed \$10,000, except as otherwise
19 provided in subsection (2) of Section 3-103 as to submission of
20 false or misleading information in a license application.

21 (c) The State's Attorney of the county in which the
22 facility is located, or the Attorney General, shall be notified
23 by the Director of any violations of this Section.

24 (Source: P.A. 96-339, eff. 7-1-10.)

1 Sec. 3-402. Notice of involuntary transfer or discharge.
2 Involuntary transfer or discharge of a resident from a facility
3 shall be preceded by the discussion required under Section
4 3-408 and by a minimum written notice of 21 days, except in one
5 of the following instances:

6 (a) When ~~when~~ an emergency transfer or discharge is ordered
7 by the resident's attending physician because of the resident's
8 health care needs, ~~or~~

9 (b) When ~~when~~ the transfer or discharge is mandated by the
10 physical safety of other residents, the facility staff, or
11 facility visitors, as documented in the clinical record. The
12 Department shall be notified prior to any such involuntary
13 transfer or discharge. The Department shall immediately offer
14 transfer, or discharge and relocation assistance to residents
15 transferred or discharged under this subparagraph (b), and the
16 Department may place relocation teams as provided in Section
17 3-419 of this Act.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-501)

20 Sec. 3-501. Monitor or receiver for facility; grounds. The
21 Department may place an employee or agent to serve as a monitor
22 in a facility or may petition the circuit court for appointment
23 of a receiver for a facility, or both, when any of the
24 following conditions exist:

25 (a) The facility is operating without a license;

1 (b) The Department has suspended, revoked or refused to
2 renew the existing license of the facility;

3 (c) The facility is closing or has informed the Department
4 that it intends to close and adequate arrangements for
5 relocation of residents have not been made at least 30 days
6 prior to closure;

7 (d) The Department determines that an emergency exists,
8 whether or not it has initiated revocation or nonrenewal
9 procedures, if because of the unwillingness or inability of the
10 licensee to remedy the emergency the Department believes a
11 monitor or receiver is necessary; ~~or~~

12 (e) The Department is notified that the facility is
13 terminated or will not be renewed for participation in the
14 federal reimbursement program under either Title XVIII or Title
15 XIX of the Social Security Act. As used in subsection (d) and
16 Section 3-503, "emergency" means a threat to the health, safety
17 or welfare of a resident that the facility is unwilling or
18 unable to correct;~~or~~

19 (f) The facility has been designated a distressed facility
20 by the Department and does not have a consultant employed
21 pursuant to subsection (f) of Section 3-304.2 of this Act and
22 an acceptable plan of improvement, or the Department has reason
23 to believe the facility is not complying with the plan of
24 improvement. Nothing in this paragraph (f) shall preclude the
25 Department from placing a monitor in a facility if otherwise
26 justified by law; or

1 (g) At the discretion of the Department when a review of
2 facility compliance history, incident reports, or reports of
3 financial problems raises a concern that a threat to resident
4 health, safety, or welfare exists.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/3-502)

7 Sec. 3-502. Placement of monitor by Department. In any
8 situation described in Section 3-501, the Department may place
9 a qualified person to act as monitor in the facility. The
10 monitor shall observe operation of the facility, assist the
11 facility by advising it on how to comply with the State
12 regulations, and shall report periodically to the Department on
13 the operation of the facility. Once a monitor has been placed
14 the Department may retain the monitor until it is satisfied
15 that the basis for the placement is resolved, and the threat to
16 the health, safety, or welfare of a resident is not likely to
17 recur.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-504)

20 Sec. 3-504. Hearing on petition for receiver; grounds for
21 appointment of receiver. The court shall hold a hearing within
22 5 days of the filing of the petition. The petition and notice
23 of the hearing shall be served on the owner, administrator or
24 designated agent of the facility as provided under the Civil

1 Practice Law, or the petition and notice of hearing shall be
2 posted in a conspicuous place in the facility not later than 3
3 days before the time specified for the hearing, unless a
4 different period is fixed by order of the court. The court
5 shall appoint a receiver ~~for a limited time period, not to~~
6 ~~exceed 180 days,~~ if it finds that:

7 (a) The facility is operating without a license;

8 (b) The Department has suspended, revoked or refused to
9 renew the existing license of a facility;

10 (c) The facility is closing or has informed the Department
11 that it intends to close and adequate arrangements for
12 relocation of residents have not been made at least 30 days
13 prior to closure; or

14 (d) An emergency exists, whether or not the Department has
15 initiated revocation or nonrenewal procedures, if because of
16 the unwillingness or inability of the licensee to remedy the
17 emergency the appointment of a receiver is necessary.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-703)

20 Sec. 3-703. Hearing to contest decision; applicable
21 provisions. Any person requesting a hearing pursuant to
22 Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303,
23 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in
24 a particular case may have such decision reviewed in accordance
25 with Sections 3-703 through 3-712.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (210 ILCS 47/3-712)

3 Sec. 3-712. Certification of record; fee. The Department
4 shall not be required to certify any record or file any answer
5 or otherwise appear in any proceeding for judicial review under
6 Section 3-713 of this Act unless there is filed with the party
7 filing the complaint a receipt from the Department
8 acknowledging payment of the costs of furnishing and certifying
9 the record, which cost shall be computed at the rate of 95
10 cents per page of such record ~~deposits with the clerk of the~~
11 ~~court the sum of 95 cents per page, representing the costs of~~
12 ~~such certification.~~ Failure on the part of the plaintiff to
13 file such receipt in Court ~~make such deposit~~ shall be grounds
14 for dismissal of the action; provided, however, that persons
15 proceeding in forma pauperis with the approval of the circuit
16 court shall not be required to pay these fees.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (210 ILCS 47/3-808 new)

19 Sec. 3-808. Protocol for sexual assault victims; MR/DD
20 facility. The Department shall develop a protocol for the care
21 and treatment of residents who have been sexually assaulted in
22 a MR/DD facility or elsewhere.

23 (210 ILCS 47/3-808.5 new)

1 Sec. 3-808.5. Facility fraud, abuse, or neglect prevention
2 and reporting.

3 (a) A facility licensed to provide care to 17 or more
4 residents that receives Medicaid funding shall prominently
5 display in its lobby, in its dining areas, and on each floor of
6 the facility information approved by the Illinois Medicaid
7 Fraud Control Unit on how to report fraud, abuse, and neglect.
8 A facility licensed to provide care to fewer than 17 residents
9 that receives Medicaid funding shall prominently display in the
10 facility so as to be easily seen by all residents, visitors,
11 and employees information approved by the Illinois Medicaid
12 Fraud Control Unit on how to report fraud, abuse, and neglect.
13 In addition, information regarding the reporting of fraud,
14 abuse, and neglect shall be provided to each resident at the
15 time of admission and to the resident's guardian or resident's
16 representative.

17 (b) Any owner or licensee of a facility licensed under this
18 Act shall be responsible for the collection and maintenance of
19 any and all records required to be maintained under this
20 Section and any other applicable provisions of this Act and as
21 a provider under the Illinois Public Aid Code, and shall be
22 responsible for compliance with all of the disclosure
23 requirements under this Section. All books and records and
24 other papers and documents that are required to be kept, and
25 all records showing compliance with all of the disclosure
26 requirements to be made pursuant to this Section, shall be kept

1 by the licensee and available at the facility and shall, at all
2 times during business hours, be subject to inspection by any
3 law enforcement or health oversight agency or its duly
4 authorized agents or employees.

5 (c) Any report of abuse and neglect of residents made by
6 any individual in whatever manner, including, but not limited
7 to, reports made under Sections 2-107 and 3-610 of this Act, or
8 as provided under the Abused and Neglected Long Term Care
9 Facility Residents Reporting Act, that is made to an
10 administrator, a director of nursing, or any other person with
11 management responsibility at a facility must be disclosed to
12 the owners and licensee of the facility within 24 hours of the
13 report. The owners and licensee of a facility shall maintain
14 all records necessary to show compliance with this disclosure
15 requirement.

16 (d) Any person with an ownership interest in a facility
17 licensed by the Department must, within 30 days after the
18 effective date of this amendatory Act of the 97th General
19 Assembly, disclose the existence of any ownership interest in
20 any vendor who does business with the facility. The disclosures
21 required by this subsection (d) shall be made in the form and
22 manner prescribed by the Department. Licensed facilities that
23 receive Medicaid funding shall submit a copy of the disclosures
24 required by this subsection (d) to the Illinois Medicaid Fraud
25 Control Unit. The owners and licensee of a facility shall
26 maintain all records necessary to show compliance with this

1 disclosure requirement.

2 (e) Notwithstanding the provisions of Section 3-318 of this
3 Act and in addition thereto, any person, owner, or licensee who
4 willfully fails to keep and maintain, or willfully fails to
5 produce for inspection, books and records, or willfully fails
6 to make the disclosures required by this Section, is guilty of
7 a Class A misdemeanor. A second or subsequent violation of this
8 Section shall be punishable as a Class 4 felony.

9 (f) Any owner or licensee who willfully files or willfully
10 causes to be filed a document with false information with the
11 Department, the Department of Healthcare and Family Services,
12 or the Illinois Medicaid Fraud Control Unit or any other law
13 enforcement agency is guilty of a Class A misdemeanor.

14 (210 ILCS 47/3-809 new)

15 Sec. 3-809. Rules to implement changes. In developing rules
16 and regulations to implement changes made by this amendatory
17 Act of the 97th General Assembly, the Department shall seek the
18 input of advocates for facility residents, representatives of
19 associations representing facilities, and representatives of
20 associations representing employees of facilities.

21 (210 ILCS 47/3-810 new)

22 Sec. 3-810. Whistleblower protection.

23 (a) In this Section, "retaliatory action" means the
24 reprimand, discharge, suspension, demotion, denial of

1 promotion or transfer, or change in the terms and conditions of
2 employment of any employee of a facility that is taken in
3 retaliation for the employee's involvement in a protected
4 activity as set forth in paragraphs (1), (2), and (3) of
5 subsection (b) of this Section.

6 (b) A facility shall not take any retaliatory action
7 against an employee of the facility, including a nursing home
8 administrator, because the employee does any of the following:

9 (1) Discloses or threatens to disclose to a supervisor
10 or to a public body an activity, inaction, policy, or
11 practice implemented by a facility that the employee
12 reasonably believes is in violation of a law, rule, or
13 regulation.

14 (2) Provides information to or testifies before any
15 public body conducting an investigation, hearing, or
16 inquiry into any violation of a law, rule, or regulation by
17 a nursing home administrator.

18 (3) Assists or participates in a proceeding to enforce
19 the provisions of this Act.

20 (c) A violation of this Section may be established only
21 upon a finding that (1) the employee of the facility engaged in
22 conduct described in subsection (b) of this Section and (2)
23 this conduct was a contributing factor in the retaliatory
24 action alleged by the employee. There is no violation of this
25 Section, however, if the facility demonstrates by clear and
26 convincing evidence that it would have taken the same

1 unfavorable personnel action in the absence of that conduct.

2 (d) The employee of the facility may be awarded all
3 remedies necessary to make the employee whole and to prevent
4 future violations of this Section. Remedies imposed by the
5 court may include, but are not limited to, all of the
6 following:

7 (1) Reinstatement of the employee to either the same
8 position held before the retaliatory action or to an
9 equivalent position.

10 (2) Two times the amount of back pay.

11 (3) Interest on the back pay.

12 (4) Reinstatement of full fringe benefits and
13 seniority rights.

14 (5) Payment of reasonable costs and attorney's fees.

15 (e) Nothing in this Section shall be deemed to diminish the
16 rights, privileges, or remedies of an employee of a facility
17 under any other federal or State law, rule, or regulation or
18 under any employment contract.

19 Section 20. The Hospital Licensing Act is amended by adding
20 Section 6.09a and by changing Section 7 and as follows:

21 (210 ILCS 85/6.09a new)

22 Sec. 6.09a. Report of Death. Every hospital shall, as soon
23 as possible, but no longer than 24 hours later, report the
24 death of a person readily known to be, without an investigation

1 by the hospital, a resident of a facility licensed under the
2 MR/DD Community Care Act, to the coroner or medical examiner.
3 The coroner or medical examiner shall promptly respond to the
4 report by accepting or not accepting the body for
5 investigation.

6 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

7 Sec. 7. (a) The Director after notice and opportunity for
8 hearing to the applicant or licensee may deny, suspend, or
9 revoke a permit to establish a hospital or deny, suspend, or
10 revoke a license to open, conduct, operate, and maintain a
11 hospital in any case in which he finds that there has been a
12 substantial failure to comply with the provisions of this Act,
13 the Hospital Report Card Act, or the Illinois Adverse Health
14 Care Events Reporting Law of 2005 or the standards, rules, and
15 regulations established by virtue of any of those Acts. The
16 Department may impose fines on hospitals, not to exceed \$500
17 per occurrence, for failing to (1) initiate a criminal
18 background check on a patient that meets the criteria for
19 hospital-initiated background checks or (2) report the death of
20 a person known to be a resident of a facility licensed under
21 the MR/DD Community Care Act to the coroner or medical examiner
22 within 24 hours as required by Section 6.09a of this Act. In
23 assessing whether to impose such a fine for failure to initiate
24 a criminal background check, the Department shall consider
25 various factors including, but not limited to, whether the

1 hospital has engaged in a pattern or practice of failing to
2 initiate criminal background checks. Money from fines shall be
3 deposited into the Long Term Care Provider Fund.

4 (b) Such notice shall be effected by registered mail or by
5 personal service setting forth the particular reasons for the
6 proposed action and fixing a date, not less than 15 days from
7 the date of such mailing or service, at which time the
8 applicant or licensee shall be given an opportunity for a
9 hearing. Such hearing shall be conducted by the Director or by
10 an employee of the Department designated in writing by the
11 Director as Hearing Officer to conduct the hearing. On the
12 basis of any such hearing, or upon default of the applicant or
13 licensee, the Director shall make a determination specifying
14 his findings and conclusions. In case of a denial to an
15 applicant of a permit to establish a hospital, such
16 determination shall specify the subsection of Section 6 under
17 which the permit was denied and shall contain findings of fact
18 forming the basis of such denial. A copy of such determination
19 shall be sent by registered mail or served personally upon the
20 applicant or licensee. The decision denying, suspending, or
21 revoking a permit or a license shall become final 35 days after
22 it is so mailed or served, unless the applicant or licensee,
23 within such 35 day period, petitions for review pursuant to
24 Section 13.

25 (c) The procedure governing hearings authorized by this
26 Section shall be in accordance with rules promulgated by the

1 Department and approved by the Hospital Licensing Board. A full
2 and complete record shall be kept of all proceedings, including
3 the notice of hearing, complaint, and all other documents in
4 the nature of pleadings, written motions filed in the
5 proceedings, and the report and orders of the Director and
6 Hearing Officer. All testimony shall be reported but need not
7 be transcribed unless the decision is appealed pursuant to
8 Section 13. A copy or copies of the transcript may be obtained
9 by any interested party on payment of the cost of preparing
10 such copy or copies.

11 (d) The Director or Hearing Officer shall upon his own
12 motion, or on the written request of any party to the
13 proceeding, issue subpoenas requiring the attendance and the
14 giving of testimony by witnesses, and subpoenas duces tecum
15 requiring the production of books, papers, records, or
16 memoranda. All subpoenas and subpoenas duces tecum issued under
17 the terms of this Act may be served by any person of full age.
18 The fees of witnesses for attendance and travel shall be the
19 same as the fees of witnesses before the Circuit Court of this
20 State, such fees to be paid when the witness is excused from
21 further attendance. When the witness is subpoenaed at the
22 instance of the Director, or Hearing Officer, such fees shall
23 be paid in the same manner as other expenses of the Department,
24 and when the witness is subpoenaed at the instance of any other
25 party to any such proceeding the Department may require that
26 the cost of service of the subpoena or subpoena duces tecum and

1 the fee of the witness be borne by the party at whose instance
2 the witness is summoned. In such case, the Department in its
3 discretion, may require a deposit to cover the cost of such
4 service and witness fees. A subpoena or subpoena duces tecum
5 issued as aforesaid shall be served in the same manner as a
6 subpoena issued out of a court.

7 (e) Any Circuit Court of this State upon the application of
8 the Director, or upon the application of any other party to the
9 proceeding, may, in its discretion, compel the attendance of
10 witnesses, the production of books, papers, records, or
11 memoranda and the giving of testimony before the Director or
12 Hearing Officer conducting an investigation or holding a
13 hearing authorized by this Act, by an attachment for contempt,
14 or otherwise, in the same manner as production of evidence may
15 be compelled before the court.

16 (f) The Director or Hearing Officer, or any party in an
17 investigation or hearing before the Department, may cause the
18 depositions of witnesses within the State to be taken in the
19 manner prescribed by law for like depositions in civil actions
20 in courts of this State, and to that end compel the attendance
21 of witnesses and the production of books, papers, records, or
22 memoranda.

23 (Source: P.A. 96-1372, eff. 7-29-10.)

24 Section 25. The Nursing Home Administrators Licensing and
25 Disciplinary Act is amended by changing Section 17 as follows:

1 (225 ILCS 70/17) (from Ch. 111, par. 3667)

2 (Text of Section before amendment by P.A. 96-1551)

3 (Section scheduled to be repealed on January 1, 2018)

4 Sec. 17. Grounds for disciplinary action.

5 (a) The Department may impose fines not to exceed \$10,000
6 or may refuse to issue or to renew, or may revoke, suspend,
7 place on probation, censure, reprimand or take other
8 disciplinary or non-disciplinary action with regard to the
9 license of any person, for any one or combination of the
10 following causes:

11 (1) Intentional material misstatement in furnishing
12 information to the Department.

13 (2) Conviction of or entry of a plea of guilty or nolo
14 contendere to any crime that is a felony under the laws of
15 the United States or any state or territory thereof or a
16 misdemeanor of which an essential element is dishonesty or
17 that is directly related to the practice of the profession
18 of nursing home administration.

19 (3) Making any misrepresentation for the purpose of
20 obtaining a license, or violating any provision of this
21 Act.

22 (4) Immoral conduct in the commission of any act, such
23 as sexual abuse or sexual misconduct, related to the
24 licensee's practice.

25 (5) Failing to respond within 30 days, to a written

1 request made by the Department for information.

2 (6) Engaging in dishonorable, unethical or
3 unprofessional conduct of a character likely to deceive,
4 defraud or harm the public.

5 (7) Habitual use or addiction to alcohol, narcotics,
6 stimulants, or any other chemical agent or drug which
7 results in the inability to practice with reasonable
8 judgment, skill or safety.

9 (8) Discipline by another U.S. jurisdiction if at least
10 one of the grounds for the discipline is the same or
11 substantially equivalent to those set forth herein.

12 (9) A finding by the Department that the licensee,
13 after having his or her license placed on probationary
14 status has violated the terms of probation.

15 (10) Willfully making or filing false records or
16 reports in his or her practice, including but not limited
17 to false records filed with State agencies or departments.

18 (11) Physical illness, mental illness, or other
19 impairment or disability, including, but not limited to,
20 deterioration through the aging process, or loss of motor
21 skill that results in the inability to practice the
22 profession with reasonable judgment, skill or safety.

23 (12) Disregard or violation of this Act or of any rule
24 issued pursuant to this Act.

25 (13) Aiding or abetting another in the violation of
26 this Act or any rule or regulation issued pursuant to this

1 Act.

2 (14) Allowing one's license to be used by an unlicensed
3 person.

4 (15) (Blank).

5 (16) Professional incompetence in the practice of
6 nursing home administration.

7 (17) Conviction of a violation of Section 12-19 of the
8 Criminal Code of 1961 for the abuse and gross neglect of a
9 long term care facility resident.

10 (18) Violation of the Nursing Home Care Act or the
11 MR/DD Community Care Act or of any rule issued under the
12 Nursing Home Care Act or the MR/DD Community Care Act. A
13 final adjudication of a Type "AA" violation of the Nursing
14 Home Care Act or MR/DD Community Care Act made by the
15 Illinois Department of Public Health, as identified by
16 rule, relating to the hiring, training, planning,
17 organizing, directing, or supervising the operation of a
18 nursing home and a licensee's failure to comply with this
19 Act or the rules adopted under this Act, shall create a
20 rebuttable presumption of a violation of this subsection.

21 (19) Failure to report to the Department any adverse
22 final action taken against the licensee by a licensing
23 authority of another state, territory of the United States,
24 or foreign country; or by any governmental or law
25 enforcement agency; or by any court for acts or conduct
26 similar to acts or conduct that would constitute grounds

1 for disciplinary action under this Section.

2 (20) Failure to report to the Department the surrender
3 of a license or authorization to practice as a nursing home
4 administrator in another state or jurisdiction for acts or
5 conduct similar to acts or conduct that would constitute
6 grounds for disciplinary action under this Section.

7 (21) Failure to report to the Department any adverse
8 judgment, settlement, or award arising from a liability
9 claim related to acts or conduct similar to acts or conduct
10 that would constitute grounds for disciplinary action
11 under this Section.

12 All proceedings to suspend, revoke, place on probationary
13 status, or take any other disciplinary action as the Department
14 may deem proper, with regard to a license on any of the
15 foregoing grounds, must be commenced within 5 years next after
16 receipt by the Department of (i) a complaint alleging the
17 commission of or notice of the conviction order for any of the
18 acts described herein or (ii) a referral for investigation
19 under Section 3-108 of the Nursing Home Care Act.

20 The entry of an order or judgment by any circuit court
21 establishing that any person holding a license under this Act
22 is a person in need of mental treatment operates as a
23 suspension of that license. That person may resume their
24 practice only upon the entry of a Department order based upon a
25 finding by the Board that they have been determined to be
26 recovered from mental illness by the court and upon the Board's

1 recommendation that they be permitted to resume their practice.

2 The Department, upon the recommendation of the Board, may
3 adopt rules which set forth standards to be used in determining
4 what constitutes:

5 (i) when a person will be deemed sufficiently
6 rehabilitated to warrant the public trust;

7 (ii) dishonorable, unethical or unprofessional conduct
8 of a character likely to deceive, defraud, or harm the
9 public;

10 (iii) immoral conduct in the commission of any act
11 related to the licensee's practice; and

12 (iv) professional incompetence in the practice of
13 nursing home administration.

14 However, no such rule shall be admissible into evidence in
15 any civil action except for review of a licensing or other
16 disciplinary action under this Act.

17 In enforcing this Section, the Department or Board, upon a
18 showing of a possible violation, may compel any individual
19 licensed to practice under this Act, or who has applied for
20 licensure pursuant to this Act, to submit to a mental or
21 physical examination, or both, as required by and at the
22 expense of the Department. The examining physician or
23 physicians shall be those specifically designated by the
24 Department or Board. The Department or Board may order the
25 examining physician to present testimony concerning this
26 mental or physical examination of the licensee or applicant. No

1 information shall be excluded by reason of any common law or
2 statutory privilege relating to communications between the
3 licensee or applicant and the examining physician. The
4 individual to be examined may have, at his or her own expense,
5 another physician of his or her choice present during all
6 aspects of the examination. Failure of any individual to submit
7 to mental or physical examination, when directed, shall be
8 grounds for suspension of his or her license until such time as
9 the individual submits to the examination if the Department
10 finds, after notice and hearing, that the refusal to submit to
11 the examination was without reasonable cause.

12 If the Department or Board finds an individual unable to
13 practice because of the reasons set forth in this Section, the
14 Department or Board shall require such individual to submit to
15 care, counseling, or treatment by physicians approved or
16 designated by the Department or Board, as a condition, term, or
17 restriction for continued, reinstated, or renewed licensure to
18 practice; or in lieu of care, counseling, or treatment, the
19 Department may file, or the Board may recommend to the
20 Department to file, a complaint to immediately suspend, revoke,
21 or otherwise discipline the license of the individual. Any
22 individual whose license was granted pursuant to this Act or
23 continued, reinstated, renewed, disciplined or supervised,
24 subject to such terms, conditions or restrictions who shall
25 fail to comply with such terms, conditions or restrictions
26 shall be referred to the Secretary for a determination as to

1 whether the licensee shall have his or her license suspended
2 immediately, pending a hearing by the Department. In instances
3 in which the Secretary immediately suspends a license under
4 this Section, a hearing upon such person's license must be
5 convened by the Board within 30 days after such suspension and
6 completed without appreciable delay. The Department and Board
7 shall have the authority to review the subject administrator's
8 record of treatment and counseling regarding the impairment, to
9 the extent permitted by applicable federal statutes and
10 regulations safeguarding the confidentiality of medical
11 records.

12 An individual licensed under this Act, affected under this
13 Section, shall be afforded an opportunity to demonstrate to the
14 Department or Board that he or she can resume practice in
15 compliance with acceptable and prevailing standards under the
16 provisions of his or her license.

17 (b) Any individual or organization acting in good faith,
18 and not in a wilful and wanton manner, in complying with this
19 Act by providing any report or other information to the
20 Department, or assisting in the investigation or preparation of
21 such information, or by participating in proceedings of the
22 Department, or by serving as a member of the Board, shall not,
23 as a result of such actions, be subject to criminal prosecution
24 or civil damages.

25 (c) Members of the Board, and persons retained under
26 contract to assist and advise in an investigation, shall be

1 indemnified by the State for any actions occurring within the
2 scope of services on or for the Board, done in good faith and
3 not wilful and wanton in nature. The Attorney General shall
4 defend all such actions unless he or she determines either that
5 there would be a conflict of interest in such representation or
6 that the actions complained of were not in good faith or were
7 wilful and wanton.

8 Should the Attorney General decline representation, a
9 person entitled to indemnification under this Section shall
10 have the right to employ counsel of his or her choice, whose
11 fees shall be provided by the State, after approval by the
12 Attorney General, unless there is a determination by a court
13 that the member's actions were not in good faith or were wilful
14 and wanton.

15 A person entitled to indemnification under this Section
16 must notify the Attorney General within 7 days of receipt of
17 notice of the initiation of any action involving services of
18 the Board. Failure to so notify the Attorney General shall
19 constitute an absolute waiver of the right to a defense and
20 indemnification.

21 The Attorney General shall determine within 7 days after
22 receiving such notice, whether he or she will undertake to
23 represent a person entitled to indemnification under this
24 Section.

25 (d) The determination by a circuit court that a licensee is
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental Disabilities
2 Code, as amended, operates as an automatic suspension. Such
3 suspension will end only upon a finding by a court that the
4 patient is no longer subject to involuntary admission or
5 judicial admission and issues an order so finding and
6 discharging the patient; and upon the recommendation of the
7 Board to the Secretary that the licensee be allowed to resume
8 his or her practice.

9 (e) The Department may refuse to issue or may suspend the
10 license of any person who fails to file a return, or to pay the
11 tax, penalty or interest shown in a filed return, or to pay any
12 final assessment of tax, penalty or interest, as required by
13 any tax Act administered by the Department of Revenue, until
14 such time as the requirements of any such tax Act are
15 satisfied.

16 (f) The Department of Public Health shall transmit to the
17 Department a list of those facilities which receive an "A"
18 violation as defined in Section 1-129 of the Nursing Home Care
19 Act.

20 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;
21 96-1372, eff. 7-29-10.)

22 (Text of Section after amendment by P.A. 96-1551)

23 (Section scheduled to be repealed on January 1, 2018)

24 Sec. 17. Grounds for disciplinary action.

25 (a) The Department may impose fines not to exceed \$10,000

1 or may refuse to issue or to renew, or may revoke, suspend,
2 place on probation, censure, reprimand or take other
3 disciplinary or non-disciplinary action with regard to the
4 license of any person, for any one or combination of the
5 following causes:

6 (1) Intentional material misstatement in furnishing
7 information to the Department.

8 (2) Conviction of or entry of a plea of guilty or nolo
9 contendere to any crime that is a felony under the laws of
10 the United States or any state or territory thereof or a
11 misdemeanor of which an essential element is dishonesty or
12 that is directly related to the practice of the profession
13 of nursing home administration.

14 (3) Making any misrepresentation for the purpose of
15 obtaining a license, or violating any provision of this
16 Act.

17 (4) Immoral conduct in the commission of any act, such
18 as sexual abuse or sexual misconduct, related to the
19 licensee's practice.

20 (5) Failing to respond within 30 days, to a written
21 request made by the Department for information.

22 (6) Engaging in dishonorable, unethical or
23 unprofessional conduct of a character likely to deceive,
24 defraud or harm the public.

25 (7) Habitual use or addiction to alcohol, narcotics,
26 stimulants, or any other chemical agent or drug which

1 results in the inability to practice with reasonable
2 judgment, skill or safety.

3 (8) Discipline by another U.S. jurisdiction if at least
4 one of the grounds for the discipline is the same or
5 substantially equivalent to those set forth herein.

6 (9) A finding by the Department that the licensee,
7 after having his or her license placed on probationary
8 status has violated the terms of probation.

9 (10) Willfully making or filing false records or
10 reports in his or her practice, including but not limited
11 to false records filed with State agencies or departments.

12 (11) Physical illness, mental illness, or other
13 impairment or disability, including, but not limited to,
14 deterioration through the aging process, or loss of motor
15 skill that results in the inability to practice the
16 profession with reasonable judgment, skill or safety.

17 (12) Disregard or violation of this Act or of any rule
18 issued pursuant to this Act.

19 (13) Aiding or abetting another in the violation of
20 this Act or any rule or regulation issued pursuant to this
21 Act.

22 (14) Allowing one's license to be used by an unlicensed
23 person.

24 (15) (Blank).

25 (16) Professional incompetence in the practice of
26 nursing home administration.

1 (17) Conviction of a violation of Section 12-19 or
2 subsection (a) of Section 12-4.4a of the Criminal Code of
3 1961 for the abuse and criminal neglect of a long term care
4 facility resident.

5 (18) Violation of the Nursing Home Care Act or the
6 MR/DD Community Care Act or of any rule issued under the
7 Nursing Home Care Act or the MR/DD Community Care Act. A
8 final adjudication of a Type "AA" violation of the Nursing
9 Home Care Act made or MR/DD Community Care Act by the
10 Illinois Department of Public Health, as identified by
11 rule, relating to the hiring, training, planning,
12 organizing, directing, or supervising the operation of a
13 nursing home and a licensee's failure to comply with this
14 Act or the rules adopted under this Act, shall create a
15 rebuttable presumption of a violation of this subsection.

16 (19) Failure to report to the Department any adverse
17 final action taken against the licensee by a licensing
18 authority of another state, territory of the United States,
19 or foreign country; or by any governmental or law
20 enforcement agency; or by any court for acts or conduct
21 similar to acts or conduct that would constitute grounds
22 for disciplinary action under this Section.

23 (20) Failure to report to the Department the surrender
24 of a license or authorization to practice as a nursing home
25 administrator in another state or jurisdiction for acts or
26 conduct similar to acts or conduct that would constitute

1 grounds for disciplinary action under this Section.

2 (21) Failure to report to the Department any adverse
3 judgment, settlement, or award arising from a liability
4 claim related to acts or conduct similar to acts or conduct
5 that would constitute grounds for disciplinary action
6 under this Section.

7 All proceedings to suspend, revoke, place on probationary
8 status, or take any other disciplinary action as the Department
9 may deem proper, with regard to a license on any of the
10 foregoing grounds, must be commenced within 5 years next after
11 receipt by the Department of (i) a complaint alleging the
12 commission of or notice of the conviction order for any of the
13 acts described herein or (ii) a referral for investigation
14 under Section 3-108 of the Nursing Home Care Act.

15 The entry of an order or judgment by any circuit court
16 establishing that any person holding a license under this Act
17 is a person in need of mental treatment operates as a
18 suspension of that license. That person may resume their
19 practice only upon the entry of a Department order based upon a
20 finding by the Board that they have been determined to be
21 recovered from mental illness by the court and upon the Board's
22 recommendation that they be permitted to resume their practice.

23 The Department, upon the recommendation of the Board, may
24 adopt rules which set forth standards to be used in determining
25 what constitutes:

26 (i) when a person will be deemed sufficiently

1 rehabilitated to warrant the public trust;

2 (ii) dishonorable, unethical or unprofessional conduct
3 of a character likely to deceive, defraud, or harm the
4 public;

5 (iii) immoral conduct in the commission of any act
6 related to the licensee's practice; and

7 (iv) professional incompetence in the practice of
8 nursing home administration.

9 However, no such rule shall be admissible into evidence in
10 any civil action except for review of a licensing or other
11 disciplinary action under this Act.

12 In enforcing this Section, the Department or Board, upon a
13 showing of a possible violation, may compel any individual
14 licensed to practice under this Act, or who has applied for
15 licensure pursuant to this Act, to submit to a mental or
16 physical examination, or both, as required by and at the
17 expense of the Department. The examining physician or
18 physicians shall be those specifically designated by the
19 Department or Board. The Department or Board may order the
20 examining physician to present testimony concerning this
21 mental or physical examination of the licensee or applicant. No
22 information shall be excluded by reason of any common law or
23 statutory privilege relating to communications between the
24 licensee or applicant and the examining physician. The
25 individual to be examined may have, at his or her own expense,
26 another physician of his or her choice present during all

1 aspects of the examination. Failure of any individual to submit
2 to mental or physical examination, when directed, shall be
3 grounds for suspension of his or her license until such time as
4 the individual submits to the examination if the Department
5 finds, after notice and hearing, that the refusal to submit to
6 the examination was without reasonable cause.

7 If the Department or Board finds an individual unable to
8 practice because of the reasons set forth in this Section, the
9 Department or Board shall require such individual to submit to
10 care, counseling, or treatment by physicians approved or
11 designated by the Department or Board, as a condition, term, or
12 restriction for continued, reinstated, or renewed licensure to
13 practice; or in lieu of care, counseling, or treatment, the
14 Department may file, or the Board may recommend to the
15 Department to file, a complaint to immediately suspend, revoke,
16 or otherwise discipline the license of the individual. Any
17 individual whose license was granted pursuant to this Act or
18 continued, reinstated, renewed, disciplined or supervised,
19 subject to such terms, conditions or restrictions who shall
20 fail to comply with such terms, conditions or restrictions
21 shall be referred to the Secretary for a determination as to
22 whether the licensee shall have his or her license suspended
23 immediately, pending a hearing by the Department. In instances
24 in which the Secretary immediately suspends a license under
25 this Section, a hearing upon such person's license must be
26 convened by the Board within 30 days after such suspension and

1 completed without appreciable delay. The Department and Board
2 shall have the authority to review the subject administrator's
3 record of treatment and counseling regarding the impairment, to
4 the extent permitted by applicable federal statutes and
5 regulations safeguarding the confidentiality of medical
6 records.

7 An individual licensed under this Act, affected under this
8 Section, shall be afforded an opportunity to demonstrate to the
9 Department or Board that he or she can resume practice in
10 compliance with acceptable and prevailing standards under the
11 provisions of his or her license.

12 (b) Any individual or organization acting in good faith,
13 and not in a wilful and wanton manner, in complying with this
14 Act by providing any report or other information to the
15 Department, or assisting in the investigation or preparation of
16 such information, or by participating in proceedings of the
17 Department, or by serving as a member of the Board, shall not,
18 as a result of such actions, be subject to criminal prosecution
19 or civil damages.

20 (c) Members of the Board, and persons retained under
21 contract to assist and advise in an investigation, shall be
22 indemnified by the State for any actions occurring within the
23 scope of services on or for the Board, done in good faith and
24 not wilful and wanton in nature. The Attorney General shall
25 defend all such actions unless he or she determines either that
26 there would be a conflict of interest in such representation or

1 that the actions complained of were not in good faith or were
2 wilful and wanton.

3 Should the Attorney General decline representation, a
4 person entitled to indemnification under this Section shall
5 have the right to employ counsel of his or her choice, whose
6 fees shall be provided by the State, after approval by the
7 Attorney General, unless there is a determination by a court
8 that the member's actions were not in good faith or were wilful
9 and wanton.

10 A person entitled to indemnification under this Section
11 must notify the Attorney General within 7 days of receipt of
12 notice of the initiation of any action involving services of
13 the Board. Failure to so notify the Attorney General shall
14 constitute an absolute waiver of the right to a defense and
15 indemnification.

16 The Attorney General shall determine within 7 days after
17 receiving such notice, whether he or she will undertake to
18 represent a person entitled to indemnification under this
19 Section.

20 (d) The determination by a circuit court that a licensee is
21 subject to involuntary admission or judicial admission as
22 provided in the Mental Health and Developmental Disabilities
23 Code, as amended, operates as an automatic suspension. Such
24 suspension will end only upon a finding by a court that the
25 patient is no longer subject to involuntary admission or
26 judicial admission and issues an order so finding and

1 discharging the patient; and upon the recommendation of the
2 Board to the Secretary that the licensee be allowed to resume
3 his or her practice.

4 (e) The Department may refuse to issue or may suspend the
5 license of any person who fails to file a return, or to pay the
6 tax, penalty or interest shown in a filed return, or to pay any
7 final assessment of tax, penalty or interest, as required by
8 any tax Act administered by the Department of Revenue, until
9 such time as the requirements of any such tax Act are
10 satisfied.

11 (f) The Department of Public Health shall transmit to the
12 Department a list of those facilities which receive an "A"
13 violation as defined in Section 1-129 of the Nursing Home Care
14 Act.

15 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;
16 96-1372, eff. 7-29-10; 96-1551, eff. 7-1-11.)

17 Section 30. The Illinois Public Aid Code is amended by
18 changing Section 5-5.12 as follows:

19 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

20 Sec. 5-5.12. Pharmacy payments.

21 (a) Every request submitted by a pharmacy for reimbursement
22 under this Article for prescription drugs provided to a
23 recipient of aid under this Article shall include the name of
24 the prescriber or an acceptable identification number as

1 established by the Department.

2 (b) Pharmacies providing prescription drugs under this
3 Article shall be reimbursed at a rate which shall include a
4 professional dispensing fee as determined by the Illinois
5 Department, plus the current acquisition cost of the
6 prescription drug dispensed. The Illinois Department shall
7 update its information on the acquisition costs of all
8 prescription drugs no less frequently than every 30 days.
9 However, the Illinois Department may set the rate of
10 reimbursement for the acquisition cost, by rule, at a
11 percentage of the current average wholesale acquisition cost.

12 (c) (Blank).

13 (d) The Department shall not impose requirements for prior
14 approval based on a preferred drug list for anti-retroviral,
15 anti-hemophilic factor concentrates, or any atypical
16 antipsychotics, conventional antipsychotics, or
17 anticonvulsants used for the treatment of serious mental
18 illnesses until 30 days after it has conducted a study of the
19 impact of such requirements on patient care and submitted a
20 report to the Speaker of the House of Representatives and the
21 President of the Senate. The Department shall review
22 utilization of narcotic medications in the medical assistance
23 program and impose utilization controls that protect against
24 abuse.

25 (e) When making determinations as to which drugs shall be
26 on a prior approval list, the Department shall include as part

1 of the analysis for this determination, the degree to which a
2 drug may affect individuals in different ways based on factors
3 including the gender of the person taking the medication.

4 (f) The Department shall cooperate with the Department of
5 Public Health and the Department of Human Services Division of
6 Mental Health in identifying psychotropic medications that,
7 when given in a particular form, manner, duration, or frequency
8 (including "as needed") in a dosage, or in conjunction with
9 other psychotropic medications to a nursing home resident or to
10 a resident of a facility licensed under the MR/DD Community
11 Care Act, may constitute a chemical restraint or an
12 "unnecessary drug" as defined by the Nursing Home Care Act or
13 Titles XVIII and XIX of the Social Security Act and the
14 implementing rules and regulations. The Department shall
15 require prior approval for any such medication prescribed for a
16 nursing home resident or to a resident of a facility licensed
17 under the MR/DD Community Care Act, that appears to be a
18 chemical restraint or an unnecessary drug. The Department shall
19 consult with the Department of Human Services Division of
20 Mental Health in developing a protocol and criteria for
21 deciding whether to grant such prior approval.

22 (g) The Department may by rule provide for reimbursement of
23 the dispensing of a 90-day supply of a generic, non-narcotic
24 maintenance medication in circumstances where it is cost
25 effective.

26 (Source: P.A. 96-1269, eff. 7-26-10; 96-1372, eff. 7-29-10;

1 96-1501, eff. 1-25-11.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".